

**In The Matter Of:**  
*COMMODITY FUTURES TRADING COMMISSION v.*  
*LONG LEAF TRADING GROUP, INC., et al.*

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*REBECCA J. WING*  
*June 17, 2021*

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<p style="text-align: right;">Page 5</p> <p>1 Trading Group and James Donelson, and Jeremy 2 Ruth is also present. He is a defendant in this 3 action. And, Ms. Wing, you're not being represented 4 by a lawyer today, is that correct? 5 A That's correct. 6 Q Have you ever provided a deposition 7 or sworn testimony? 8 A Yes. 9 Q In what context? 10 A I've been an expert witness. I have 11 been -- I've testified in testimony for the CFTC 12 in a couple matters. Don't ask me which matters. 13 I do not recall the specific matters or the name. 14 I've had depositions before in one car accident 15 case and some other contract cases. 16 Q And was the CFTC testimony, was that in 17 the last ten years? 18 A I don't believe so. Sorry, it's a long 19 time. 20 Q I understand. So the reason I ask 21 is just to make sure that we understand sort of 22 the rules of the road, and it sounds like you're 23 going to be an old pro at this and especially 24 because you're also an attorney. So I'll just</p>	<p style="text-align: right;">Page 7</p> <p>1 And because that may come up in this deposition 2 for obvious reasons, please state any objection 3 and the basis for it on the record so it's clearly 4 set forth, okay? 5 A Will do. 6 Q And if you need to take a break, 7 please let us know and we can take a break sort 8 of whenever you'd like. The only thing I'd ask 9 is that you answer any pending questions before 10 we go off the record, okay? 11 A Okay. 12 Q Usually, Ms. Wing, we would use a paper, 13 a physical document to show you exhibits but today 14 I'm going to share my screen with you, and I want to 15 make sure that you can read these documents legibly. 16 So I'm going to share what I'm going to mark as CFTC 17 Exhibit 350. And please let me know, one, if you 18 can see it and, two, you can read it clearly. 19 (Whereupon CFTC Exhibit No. 350 20 was marked for identification.) 21 A Okay. It's a little small, but I will try. 22 Q Let me see if I can make it bigger. 23 A Maybe I can make it bigger on my screen 24 here. There, yes.</p>
<p style="text-align: right;">Page 6</p> <p>1 set them out so we're all on the same page. 2 Let's you and I do our best not to talk over one 3 another, and what that means is that I'll do my best 4 to let you finish answering the question and I'll 5 ask that you do your best to let me finish asking 6 my question before you start to answer it. Is that 7 okay? 8 A That's fine. 9 Q And for the benefit of the court 10 reporter, you do need to give a verbal answer. 11 So sometimes we have an inclination to shake our 12 head or nod, but please try to do your best to give 13 a yes or no when it's called for, okay? 14 A Will do. 15 Q And another housekeeping matter 16 is if you answer my question, I'll assume that 17 you understood it. So if the question is confusing 18 or unintelligible, just let me know. I'll do my 19 best to rephrase it and make sure that we're talking 20 about the same thing. Is that fair? 21 A Yes. 22 Q And, you know, the other rule 23 is that you have to answer the questions unless 24 you're objecting on the basis of a privilege.</p>	<p style="text-align: right;">Page 8</p> <p>1 Q Do you recognize CFTC Exhibit 350? 2 A I do. 3 Q And this is a subpoena for testimony 4 directed to you in connection with the CFTC's case 5 against Long Leaf, right? 6 A Correct. 7 Q And is this the subpoena pursuant to 8 which you're appearing today for this deposition? 9 A It is, yes. 10 Q Ms. Wing, are you a licensed attorney? 11 A I am. 12 Q In what jurisdictions are you licensed 13 to practice? 14 A I am licensed in the state of Illinois and 15 the state of Colorado, and I'm admitted in several 16 federal courts. 17 Q When were you admitted to the Illinois bar? 18 A It was in 1988. 19 Q Can you please describe your educational 20 history briefly. 21 A I have an undergraduate degree 22 in finance from the Illinois State University, and 23 I have a Juris Doctor degree from the University of 24 Denver.</p>

<p style="text-align: right;">Page 9</p> <p>1 <b>Q And what year did you graduate from</b>  2 <b>law school?</b>  3 A 1987, I believe.  4 <b>Q So you were admitted to the bar in</b>  5 <b>1988. Can you please briefly provide a summary</b>  6 <b>of your employment history since 1988.</b>  7 A Well, I was admitted to the Colorado  8 bar in 1987. Then I was admitted to the Illinois  9 bar in 1988, and I was originally general counsel of  10 a family operation called Mr. Timber, incorporated,  11 which was the largest lumberyard in Illinois. And  12 then I moved to Bellows and Bellows in October 31,  13 1988 and I became a principal at Bellows and  14 Bellows. I left Bellows and Bellows in May 1, 1997,  15 became general counsel of Peregrine Financial Group  16 where I was in that role until I guess March 2015 I  17 was retained by the trustee, and my role shifted  18 from being general counsel to running the  19 liquidation.  20 <b>Q And how long did you -- were you in</b>  21 <b>the role as the trustee's counsel, if that's the</b>  22 <b>right term?</b>  23 A It's probably technically not counsel.  24 I was retained as the executive for Peregrine. So</p>	<p style="text-align: right;">Page 11</p> <p>1 <b>commodities law?</b>  2 A I do.  3 <b>Q Approximately how many?</b>  4 A Oh, a half a dozen right now.  5 <b>Q And can you describe the nature of your</b>  6 <b>private practice?</b>  7 A The majority of my private practice  8 deals with securities, commodities, real estate,  9 occasional litigation.  10 <b>Q How do you charge your clients for legal</b>  11 <b>services?</b>  12 A Well, it varies. Sometimes hourly,  13 sometimes a flat fee, sometimes a contingent fee.  14 <b>Q And you said -- I assume you send bills</b>  15 <b>or invoices to your clients?</b>  16 A It depends how the fee structure  17 is. If it's a flat fee, no. I would have an  18 engagement letter and that would be it.  19 <b>Q And if you bill by the hour, do you send</b>  20 <b>bills or invoices?</b>  21 A Sometimes, yes. It depends if  22 I'm writing off time, which I'm a very generous  23 attorney.  24 <b>Q I understand. And when you do send</b></p>
<p style="text-align: right;">Page 10</p> <p>1 I was in that role from June 12th -- I mean, June 9,  2 2012 until approximately a few days later I guess,  3 until March of 2015, I believe.  4 <b>Q And have you been in private practice since</b>  5 <b>that time period, March 2015?</b>  6 A I've been a fractional general counsel and  7 in private practice, yes.  8 <b>Q Did you say fractional general counsel?</b>  9 A Yes.  10 <b>Q What is that?</b>  11 A That means I'm general counsel to several  12 different companies.  13 <b>Q Okay. Which companies?</b>  14 A One is LW Lands and the other one  15 is Redemption Botanicals Group, and then I --  16 yes, I think that those are the only two that I'm  17 fractional GC for.  18 <b>Q Do either of those two companies have</b>  19 <b>business activities that relate to securities or</b>  20 <b>commodities?</b>  21 A Not in the commodities of the CFTC.  22 <b>Q Thank you. That's how I meant it. And</b>  23 <b>in private practice do you have any clients to whom</b>  24 <b>you provide legal services concerning securities or</b></p>	<p style="text-align: right;">Page 12</p> <p>1 <b>bills, do you itemize the tasks that you performed</b>  2 <b>to justify the amounts?</b>  3 A I try to. I would say billing is not  4 my No. 1 forte.  5 <b>Q Are you familiar with a company called</b>  6 <b>Long Leaf Trading Group?</b>  7 A I am.  8 <b>Q How are you familiar with Long Leaf</b>  9 <b>Trading?</b>  10 A At a point in time Long Leaf Trading became  11 a client of mine.  12 <b>Q And are you familiar with James Donelson?</b>  13 A Yes.  14 <b>Q How are you familiar with James Donelson?</b>  15 A I was in his wedding.  16 <b>Q Was James Donelson ever a client of yours?</b>  17 A Yes, he was.  18 <b>Q What's your understanding of the nature</b>  19 <b>of the relationship between Long Leaf Trading and</b>  20 <b>James Donelson?</b>  21 A At a point in time Mr. Donelson purchased  22 Long Leaf.  23 <b>Q Do you recall when that was?</b>  24 A December of -- and I forget the year.</p>

<p style="text-align: right;">Page 13</p> <p>1 I need some assistance on the year. 2 <b>MR. PLATT:</b> I'll show you what I'm going 3 to mark as CFTC Exhibit 351. 4 (Whereupon CFTC Exhibit No. 351 5 was marked for identification.) 6 <b>Q This is -- I'll represent to you,</b> 7 <b>Ms. Wing, that this is a document that you produced</b> 8 <b>to the CFTC. Do you recognize this document?</b> 9 A Yes, it looks like the stock purchase 10 agreement. 11 <b>Q The stock purchase agreement concerning</b> 12 <b>the transaction in which Mr. Donelson purchased Long</b> 13 <b>Leaf Trading, right?</b> 14 A From Mr. Evans, yes. 15 <b>Q And the date is December 1, 2017.</b> 16 <b>Does that refresh your recollection about the</b> 17 <b>date that Mr. Donelson became the owner of Long</b> 18 <b>Leaf Trading?</b> 19 A Well, that's the date he entered into 20 the stock purchase agreement. I don't believe 21 that's the date he closed on it but, yes, around 22 there. 23 <b>Q Is it fair to describe Long Leaf Trading</b> 24 <b>as a closely held company?</b></p>	<p style="text-align: right;">Page 15</p> <p>1 <b>distinction to be drawn between legal services that</b> 2 <b>you provided to Mr. Donelson and legal services</b> 3 <b>that you provided to Long Leaf and it's not evident</b> 4 <b>from my question that that distinction is being</b> 5 <b>drawn, I'd like you to please draw that distinction</b> 6 <b>in your answer to make it clear.</b> 7 A I will try. 8 <b>Q Okay, great. What was your fee arrangement</b> 9 <b>with Mr. Donelson?</b> 10 A I'm sorry. You're going to have to repeat 11 that. I didn't hear. 12 <b>Q Sure. Earlier you mentioned that</b> 13 <b>you sometimes billed by the hour, sometimes at a</b> 14 <b>flat fee arrangement. What was your fee arrangement</b> 15 <b>with Mr. Donelson?</b> 16 A I believe I billed him a reduced hourly 17 rate. 18 <b>Q So it sounds like you billed Mr. Donelson</b> 19 <b>by the hour, is that right?</b> 20 A I may have done some flat fees on a few 21 things. 22 <b>Q What things do you think you did flat fee</b> 23 <b>on?</b> 24 A I'm sorry. You know, Joe, it's been</p>
<p style="text-align: right;">Page 14</p> <p>1 A Yes. 2 <b>Q Earlier you mentioned that you enter</b> 3 <b>into engagement letters with clients. Do you have</b> 4 <b>engagement letters with Mr. Donelson or with Long</b> 5 <b>Leaf Trading?</b> 6 A I don't know if I do, no. I don't know. 7 I don't recall. 8 <b>Q Since Long Leaf Trading is a closely</b> 9 <b>held company and Mr. Donelson owned the company,</b> 10 <b>when you provided legal services to Donelson and</b> 11 <b>Long Leaf concerning Long Leaf, did you distinguish</b> 12 <b>between Mr. Donelson and Long Leaf when you provided</b> 13 <b>them with legal advice?</b> 14 A I'm unclear of your question. 15 <b>Q Sure. So I guess I'll ask it</b> 16 <b>a different way. Is there any reason today</b> 17 <b>that I should distinguish between legal services</b> 18 <b>you provided to Mr. Donelson and legal services you</b> 19 <b>provided to Long Leaf Trading?</b> 20 A Well, there's time I provided legal 21 services only to Mr. Donelson and not to Long Leaf, 22 and I can't answer that until you ask the particular 23 question. 24 <b>Q Okay, how about we do this. If there's a</b></p>	<p style="text-align: right;">Page 16</p> <p>1 a long time. I didn't look at past billings, so I 2 don't recall as I sit here today. 3 <b>Q But it sounds like for some of the</b> 4 <b>work you billed him by the hour and for some of</b> 5 <b>the work you billed Mr. Donelson on a flat fee</b> 6 <b>basis, is that fair?</b> 7 A That's fair, yes. 8 <b>Q And you did send him bills but you did</b> 9 <b>not review those in advance of this deposition, is</b> 10 <b>that accurate?</b> 11 A That is correct. And there are some things 12 I didn't bill him for. 13 <b>Q Do you remember what legal services</b> 14 <b>you provided to Mr. Donelson for which you did not</b> 15 <b>bill him?</b> 16 A Generally, no. I would have to look 17 back at my notes, but there were several hours 18 I didn't bill him. 19 <b>Q Okay, thank you. That's helpful. How</b> 20 <b>did you first come to be retained by Mr. Donelson?</b> 21 A He called me. 22 <b>Q Do you recall when he first retained you</b> 23 <b>to provide legal services?</b> 24 A As it relates to Long Leaf, after</p>

<p style="text-align: right;">Page 17</p> <p>1 he located Long Leaf to purchase, identified 2 Long Leaf as the company he thought he would like 3 to purchase. 4 <b>Q And before the sale transaction reflected</b> 5 <b>in Exhibit 351 closed?</b> 6 A Yes. 7 <b>Q So did you advise Mr. Donelson</b> 8 <b>in connection with the purchase transaction?</b> 9 A Yeah. 10 <b>Q You mentioned that you participated</b> 11 <b>in the Donelsons' wedding. Can you describe the</b> 12 <b>nature of your relationship with the Donelsons?</b> 13 A I knew his wife since she was two years 14 old. 15 <b>Q And that's Vicki Donelson, right?</b> 16 A That is correct. 17 <b>Q So is it fair to describe that the</b> 18 <b>relationship, you are social friends with the</b> 19 <b>Donelsons?</b> 20 A That is fair. 21 <b>Q That remains true?</b> 22 A I assume so. 23 <b>Q Okay. Do you see them at their house</b> 24 <b>socially?</b></p>	<p style="text-align: right;">Page 19</p> <p>1 A To the best of my knowledge, he did. 2 I wasn't retained to do in-depth due diligence 3 so ... 4 <b>BY MR. PLATT:</b> 5 <b>Q What was the scope of your engagement</b> 6 <b>with respect to the purchase transaction of Long</b> 7 <b>Leaf Trading?</b> 8 A To review the stock purchase agreement 9 and to attend the closing, and I did give a list of 10 some due diligence items that he should request. 11 <b>Q What were those due diligence items that</b> 12 <b>you listed that he should request in connection with</b> 13 <b>the purchase of Long Leaf Trading?</b> 14 A All AP agreements, all disciplinary 15 issues, all regulatory inquiries, all NFA audits, 16 any accounting paper -- the accounting -- the 17 financial end of the purchase. Mr. Donelson is a 18 CTA so he would have been more attuned to handling 19 than a lawyer. Customer complaints, list of the 20 basic contract in existence with the business, the 21 operations side, data fee, leases. I'm sure there 22 were a few more, but off the top of my head I can't 23 remember. 24 <b>Q You had never provided legal services</b></p>
<p style="text-align: right;">Page 18</p> <p>1 A Occasionally, not -- I haven't been 2 visiting in a while because of COVID obviously. 3 Haven't visited anybody in a while. 4 <b>Q Have you ever gone on a vacation with</b> 5 <b>the Donelsons?</b> 6 A I believe I have once or twice. 7 <b>Q Attend parties with the Donelsons?</b> 8 A Yes. 9 <b>Q Can you describe the process by which</b> 10 <b>Mr. Donelson purchased Long Leaf Trading?</b> 11 A Could you be a little more specific 12 on process? 13 <b>Q Sure. How did he buy the company?</b> 14 A He did a stock purchase. 15 <b>Q How did he identify Long Leaf Trading</b> 16 <b>as a company to buy?</b> 17 A I believe he used a business broker. 18 I was not involved with the business broker. 19 <b>Q And I'll just admonish you before</b> 20 <b>I ask this question because it may be outside the</b> 21 <b>scope of Mr. Donelson's waiver of attorney-client</b> 22 <b>privilege. Did Mr. Donelson conduct due diligence</b> 23 <b>in connection with the sale?</b> 24 <b>MR. FALVEY:</b> I'm fine with that.</p>	<p style="text-align: right;">Page 20</p> <p>1 <b>to Long Leaf Trading before Mr. Donelson purchased</b> 2 <b>the company, is that right?</b> 3 A That's correct. 4 <b>Q You mentioned earlier that the seller</b> 5 <b>of Long Leaf Trading was Mr. Evans. That's Timothy</b> 6 <b>Evans, right?</b> 7 A That's what was represented, yes. 8 <b>Q Fair enough. And do you know if</b> 9 <b>Timothy Evans was in fact the owner of Long Leaf</b> 10 <b>Trading when it was sold to Mr. Donelson?</b> 11 A That's what it appeared to be, that he 12 owned the stock. 13 <b>Q Do you have any reason to think there</b> 14 <b>were other owners of the company?</b> 15 A No. It's just I have -- I don't 16 believe the truthfulness of Mr. Evans, period, 17 now. 18 <b>Q Do you know where Mr. Evans is presently</b> 19 <b>located?</b> 20 A Last I knew, he'd gone to Mexico. 21 <b>Q When is the last time you interacted</b> 22 <b>or communicated with Timothy Evans?</b> 23 A I made a demand on his attorney for 24 rescission, and I attempted to serve Mr. Evans</p>



<p style="text-align: right;">Page 21</p> <p>1 not through the Hague Convention but just through 2 the emails pursuant to the contract. So that 3 would have been -- I'm sorry, you know. The dates 4 escape me, but a couple years back. Two years back, 5 maybe three, maybe two, okay. 6 <b>Q Was it around the time that you filed</b> 7 <b>the complaint against Timothy Evans on behalf of</b> 8 <b>Donelson Enterprises?</b> 9 A It was before that, of course, but yes. 10 <b>Q Do you remember what Timothy Evans' email</b> 11 <b>address is?</b> 12 A I believe it's in the stock purchase 13 agreement or some of the closing documents, but 14 offhand, no. 15 <b>Q Other than the information that would</b> 16 <b>be in the stock purchase agreement, you're not aware</b> 17 <b>of any other email addresses that Mr. Evans uses?</b> 18 A No, and his attorney was dark on that 19 matter. 20 <b>Q You mentioned rescission. Is that the</b> 21 <b>basis for Donelson Enterprises' lawsuit against</b> 22 <b>Mr. Evans?</b> 23 A I don't know if that's an area -- 24 <b>THE WITNESS: Jim?</b></p>	<p style="text-align: right;">Page 23</p> <p>1 A I'm not handling it on a day-to-day basis 2 anymore. 3 <b>Q Do you know --</b> 4 A I believe there was a substitution 5 of counsel. 6 <b>Q Do you know who's prosecuting that lawsuit</b> 7 <b>on Mr. Donelson's behalf now?</b> 8 A I thought Jim was or Mr. Iavarone, but 9 Mr. Iavarone retired so I don't know. 10 <b>Q Do you know if Mr. Evans has been served</b> 11 <b>with process in that case?</b> 12 A While I was representing, no, he had 13 not been successfully served yet. Well, I take 14 that back. It is our position that he was served 15 pursuant to contract, and he was successfully served 16 pursuant to giving email notice pursuant to 17 contract. Was he served pursuant to the Hague 18 Convention, no. 19 <b>Q That's helpful. Thank you.</b> 20 <b>MR. PLATT:</b> I'm going to mark CFTC 21 Exhibit 352 and share this with you, Ms. Wing. 22 (Whereupon CFTC Exhibit No. 352 23 was marked for identification.) 24 <b>Q Do you recognize Exhibit 352?</b></p>
<p style="text-align: right;">Page 22</p> <p>1 <b>MR. FALVEY:</b> Can you say the question 2 again, Jody? I'm sorry. 3 <b>MR. PLATT:</b> Sure. Earlier Ms. Wing 4 referenced a desire to rescind the contract, 5 if I have that correctly. 6 <b>MR. FALVEY:</b> Yes. 7 <b>MR. PLATT:</b> And I asked -- the question 8 is is that the basis for Mr. Donelson's lawsuit 9 against Timothy Evans that's pending in Cook 10 County Circuit Court. 11 <b>MR. FALVEY:</b> Yeah, that's fair. It's 12 public so ... 13 A Okay. Well, rescission is the remedy 14 we're seeking. That's not the basis of the lawsuit. 15 It's the remedy we're seeking. 16 <b>BY MR. PLATT:</b> 17 <b>Q So what's the basis of the lawsuit?</b> 18 A Fraud, fraud, fraud. 19 <b>Q Just to flesh that out a little bit,</b> 20 <b>is it Mr. Evans' fraud against Donelson Enterprises</b> 21 <b>in connection with the sale transaction of Long Leaf</b> 22 <b>Trading?</b> 23 A Correct. 24 <b>Q What's the status of that litigation?</b></p>	<p style="text-align: right;">Page 24</p> <p>1 <b>And I can scroll down as much as you'd like,</b> 2 <b>but hopefully this initial page will give you</b> 3 <b>the gist of it.</b> 4 A Well, I assume it is the complaint we 5 filed against Long Leaf. 6 <b>Q Do you recognize this as the CFTC's</b> 7 <b>complaint against Long Leaf, Mr. Donelson,</b> 8 <b>Mr. Evans, Mr. Ruth and Mr. Nelson?</b> 9 A Oh, wait. I'm sorry. Yes, thank you. 10 I assume it is the complaint you filed. But, no, 11 I really don't know -- I don't remember it, yeah. 12 <b>Q Are you aware that the CFTC sued Long Leaf</b> 13 <b>and Mr. Donelson in federal court?</b> 14 A I am. 15 <b>Q How did you become aware of that fact?</b> 16 A I assume Mr. Donelson told me or the CFTC 17 told me. I don't recall. 18 <b>Q Have you ever reviewed the complaint</b> 19 <b>that the CFTC filed against Long Leaf Trading and</b> 20 <b>Mr. Donelson?</b> 21 A Yes. 22 <b>Q What is your understanding of the nature</b> 23 <b>of the CFTC's claims against Long Leaf Trading and</b> 24 <b>Mr. Donelson?</b></p>

<p style="text-align: right;">Page 25</p> <p>1 A Oh, Joe, it's been a long time since 2 I've looked at it. So I don't have an understanding 3 as I sit here today as to all the natures, but I can 4 agree or disagree if you list them out. 5 <b>Q Do you generally agree that there</b> 6 <b>are fraud claims and regulatory violations alleged</b> 7 <b>in the CFTC's complaint?</b> 8 A That is correct. 9 <b>Q I'm just going to scroll down and if</b> 10 <b>you'd like me to slow down or stop, please just let</b> 11 <b>me know. I just want to focus on the claims that</b> 12 <b>are listed in the complaint.</b> 13 A Okay. Let me exit out of something 14 that pops up from Webex, okay? I missed Count I. 15 <b>Q Sure. So I'm on -- in CFTC Exhibit 352</b> 16 <b>I'm on page 18 of the internal pagination in the</b> 17 <b>blue ECF pagination, which you can see at the top</b> 18 <b>of the page.</b> 19 A Uh-huh. 20 <b>Q This is heading Roman Numeral V or 5.</b> 21 <b>It's titled Statutory and Regulatory Violations.</b> 22 <b>Do you see that?</b> 23 A Yes. 24 <b>Q Count I is Fraud in Connection</b></p>	<p style="text-align: right;">Page 27</p> <p>1 <b>do you agree that the first three counts relate to</b> 2 <b>fraud and Counts IV, V and VI relate to regulatory</b> 3 <b>violations?</b> 4 A As stated here, yes. I do not agree 5 that the allegations are correct, but that is what 6 it says. 7 <b>MR. PLATT:</b> I'm going to mark CFTC 8 Exhibit 353 and share my screen with you. 9 (Whereupon CFTC Exhibit No. 353 10 was marked for identification.) 11 <b>Q Are you able to read CFTC Exhibit 353?</b> 12 A I see that it's the response to 13 interrogatories by Mr. Donelson. 14 <b>Q Exhibit 353 is Donelson's response</b> 15 <b>to the CFTC's first set of interrogatories. Do you</b> 16 <b>agree?</b> 17 A That's what it says, yes. 18 <b>Q Have you ever seen this document before?</b> 19 A I don't know. Did I sign it? You need 20 to scroll all the way down on the title. 21 <b>Q Okay. I'll scroll slowly through the</b> 22 <b>document and you can tell me --</b> 23 A Yeah. After 35 years of practicing law, 24 everything looks -- begins to blend in together,</p>
<p style="text-align: right;">Page 26</p> <p>1 <b>with Options on Futures Contracts, is that right?</b> 2 A Okay. That's what it says. 3 <b>Q I'm just going to scroll down and now</b> 4 <b>I'm on page 20. Count II is also a fraud claim,</b> 5 <b>right?</b> 6 A Fraud claim by a CTA, yes, is what 7 it claims. 8 <b>Q On page 22 of CFTC Exhibit 352</b> 9 <b>Count III is another fraud claim that's titled</b> 10 <b>Fraudulent Advertising by a Commodity Trading</b> 11 <b>Advisor. Did I read that correctly?</b> 12 A That is what it says, yes. 13 <b>Q Count IV, which is on page 23,</b> 14 <b>reads Failure to Register as a Commodity Trading</b> 15 <b>Advisor. Did I read that correctly?</b> 16 A Yes. 17 <b>Q Count V on page 25 is Failure to</b> 18 <b>Provide Required Disclosures for Trading Program.</b> 19 <b>Did I read that right?</b> 20 A Correct. 21 <b>Q Count VI on page 26 is Failure to Register</b> 22 <b>as Associated Persons, right?</b> 23 A That is what it says. 24 <b>Q So this is a six-count complaint. So</b></p>	<p style="text-align: right;">Page 28</p> <p>1 as you can appreciate. 2 <b>Q I certainly can. And just let me</b> 3 <b>know, you know, if you want me to slow down on</b> 4 <b>the document --</b> 5 A I have not seen this document. 6 <b>Q Okay. On page 2 of CFTC Exhibit 353</b> 7 <b>there's a heading Responses, and under Responses</b> 8 <b>Mr. Donelson repeated Interrogatory No. 1 and then</b> 9 <b>you see the answer to Interrogatory No. 1. Do you</b> 10 <b>see that?</b> 11 A Yes. 12 <b>Q Mr. Donelson's answer to interrogatory</b> 13 <b>No. 1 he writes, "Donelson will assert an Advice</b> 14 <b>of Counsel defense as it relates to Counts IV, V and</b> 15 <b>VI of the Complaint." Did I read that correctly?</b> 16 A That's what it says. 17 <b>Q And we just looked at Counts IV, V</b> 18 <b>and VI of the complaint, and I think we all agree</b> 19 <b>that those were the regulatory violations. Is that</b> 20 <b>a fair summary?</b> 21 A That's a fair summary. 22 <b>Q I'm going to scroll down on CFTC</b> 23 <b>Exhibit 353 to Donelson's response to CFTC</b> 24 <b>Interrogatory No. 2 and he writes, "Donelson relied</b></p>



<p style="text-align: right;">Page 29</p> <p>1 on the advice provided by Rebecca Wing." That's 2 you, right? 3 A That's -- I assume so, yes. I don't know 4 of another one. 5 Q That's your office address, the 5401 Patton 6 Drive in Lisle, Illinois? 7 A That's correct. 8 Q We can put that to the side. Ms. Wing, 9 I'm going to mark CFTC Exhibit 354 and share it 10 with you. 11 (Whereupon CFTC Exhibit No. 354 12 was marked for identification.) 13 Q This is another discovery response. 14 Do you agree that this is titled James Donelson's 15 response to plaintiff's second set of 16 interrogatories? 17 A Yes. 18 Q I'm scrolling down to the bottom 19 of page 2 on CFTC Exhibit 354. What's listed 20 as Interrogatory No. 3 on this document -- but 21 I think it might actually have been the CFTC's 22 fifth interrogatory to Mr. Donelson, but we'll 23 call it 3 on this document -- it seeks information 24 about any conversations between you, Ms. Wing, and</p>	<p style="text-align: right;">Page 31</p> <p>1 A This is -- wait. I thought this was 2 Exhibit 354. Did I mismark in my notes? 3 Q I think 354 is the interrogatory 4 responses. I marked this separate document as 355. 5 A Okay. I don't know if I recognize this. 6 I might have seen it. I don't recall offhand. 7 Q Understanding that you don't 8 necessarily recognize the document, please take 9 a minute to review it and familiarize yourself 10 with its contents. 11 A Yes. 12 Q Ms. Wing, do you agree that CFTC 13 Exhibit 355 generally references four discrete 14 conversations between you and James Donelson at 15 various times between November 2017 and June 16 of 2018? 17 A It represents four topics, yes, of 18 discussion. 19 Q So the heading on Exhibit 355 on 20 the right-hand column is Nature of Conversation, 21 and I see four discrete paragraphs. Do you think 22 this represents four individual conversations or 23 more than four individual conversations? 24 A Oh, definitely more than four</p>
<p style="text-align: right;">Page 30</p> <p>1 Mr. Donelson concerning Long Leaf Trading's 2 obligation to register as a commodity trading 3 advisor, its obligation to provide Part 4 disclosure 4 documents to prospective customers and the 5 obligation of any Long Leaf employee. And I'll 6 represent to you that the interrogatory reads, "the 7 obligation of any Long Leaf employee to register 8 as an associated person of an introducing broker." 9 And you see Mr. Donelson's answer reads, "Please 10 see the attached outline of conversations with 11 approximate dates and subject matters discussed 12 in a PDF entitled 'Registration Conversations.'" 13 Did I read that answer correctly off of CFTC 14 Exhibit 354? 15 A Yes. 16 Q I'm going to mark CFTC Exhibit 355, 17 and I'll represent to you that this is the document 18 that's referenced in Mr. Donelson's interrogatory 19 response titled Registration Conversations. This 20 was produced to us by Mr. Falvey on Mr. Donelson's 21 behalf and revised on June 14, 2021. 22 (Whereupon CFTC Exhibit No. 355 23 was marked for identification.) 24 Q Do you recognize Exhibit 355?</p>	<p style="text-align: right;">Page 32</p> <p>1 individual conversations. It was over a period 2 of time. 3 MR. PLATT: I'm now going to show 4 what I'm going to mark as CFTC Exhibit 356. 5 (Whereupon CFTC Exhibit No. 356 6 was marked for identification.) 7 A Yes. 8 Q Do you recognize this as the corrected 9 answer of James A. Donelson that he filed in the 10 CFTC vs. Long Leaf Trading case? 11 A First time I'm seeing it here. 12 Q Up at the top in the blue text do you 13 see where it says in the middle of the document the 14 No. 30? 15 A Yes. 16 Q And the title of this legal document 17 is Corrected Answer of James A. Donelson, correct? 18 A Yes, that's what it says. 19 Q I'm going to scroll down to paragraph 35 20 of this document. 21 A The mouse needs oil. 22 Q The answer, James Donelson's answer to 23 paragraph 35 of the CFTC's complaint, the second 24 sentence reads, "Donelson Admits that subsequent</p>

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1 to January 1, 2018, representatives of Long Leaf  
2 used scripts approved by Long Leaf's attorney in  
3 soliciting customers." Did I read that accurately?  
4 A That's what it says.  
5 Q And I'm scrolling down to paragraph 45.  
6 Donelson's answer to paragraph 45 of the CFTC's  
7 complaint contains that same sentence. Do you  
8 see that?  
9 A I see that.  
10 Q Ms. Wing, I'm going to ask you  
11 questions today, and I already have, that seek  
12 information that's potentially covered by the  
13 attorney-client privilege. When a defendant  
14 seeks to make an advice of counsel defense, he  
15 impliedly waives privilege over at least the  
16 documents and information concerning the topics  
17 that have been placed at issue by the assertion  
18 of the defense.  
19 Based on Mr. Donelson's  
20 discovery responses which we've just reviewed  
21 and on Mr. Donelson's answer, I understand he  
22 may be making an advice of counsel defense over at  
23 least Counts IV, V and VI of the CFTC's complaint,  
24 which are the regulatory violations, and associated

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1 controlling person and respondeat superior charges  
2 and that you are the attorney who Mr. Donelson  
3 contends advised him on some or all of the issues  
4 concerning those violations.  
5 Is that consistent with your  
6 understanding of Mr. Donelson's defense to this  
7 case?  
8 A I believe the answer to that is yes.  
9 Q It's not my intent to elicit privileged  
10 information on topics that have not been and will  
11 not be placed at issue by Mr. Donelson's assertion  
12 of the advice of counsel defense, but I may ask  
13 questions that cross the line into privileged  
14 territory to establish the topics on which  
15 Mr. Donelson is not going to assert an advice  
16 of counsel defense. Does that make sense?  
17 A That it does.  
18 Q What that means is for both you and  
19 Mr. Falvey, who is present and represents Long  
20 Leaf Trading and Mr. Donelson, that you'll have  
21 to be vigilant in either objecting in Mr. Falvey's  
22 case or your case, or in your case to not answer  
23 any questions that elicit privileged information  
24 that is not within the scope of Mr. Donelson's

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1 at issue waiver. Do you understand?  
2 A I do.  
3 MR. PLATT: Mr. Donelson -- or, excuse  
4 me, Mr. Falvey, do you agree to proceed on  
5 this basis?  
6 THE WITNESS: You're on mute.  
7 MR. FALVEY: Thank you, sorry. I do, yes.  
8 BY MR. PLATT:  
9 Q The CFTC will take the position  
10 that any assertion of an advice of counsel defense  
11 on topics into which Mr. Donelson does not provide  
12 discovery will be waived. In other words, if the  
13 witness does not answer questions on the basis of  
14 privilege, Mr. Donelson may not assert an advice  
15 of counsel defense later on those respective topics,  
16 and I think there's a lot of case law that supports  
17 that position.  
18 So in light of this admonition,  
19 if you want to go off the record, Ms. Wing, to  
20 discuss any privilege issues with Mr. Falvey before  
21 answering, please let us know and we can address  
22 those issues as they arise, okay?  
23 A We can proceed.  
24 Q Thank you.

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1 MR. PLATT: So we've been going for  
2 about 45 or 50 minutes, and I'm at a natural  
3 sort of break. Does anyone want to take a break  
4 or should we continue?  
5 THE WITNESS: It's up to you.  
6 MR. PLATT: Well, with that in mind,  
7 we can proceed. I don't need any breaks.  
8 MR. FALVEY: Jody's the marathon man.  
9 THE WITNESS: Well, some of us old pros  
10 can go a long time.  
11 BY MR. PLATT:  
12 Q So let's turn back to CFTC Exhibit 355,  
13 which is the PDF that's titled Registration  
14 Conversations. As I read this document, there  
15 are four separate conversations or, as I understand  
16 it, maybe a series of conversations and let's label  
17 them by topic just for ease of reference. There  
18 are four paragraphs. The top one can we label  
19 Conversation 1 and the bottom one Conversation 4  
20 and just go down sequentially? Does everyone agree  
21 that that makes sense?  
22 A Yes.  
23 MR. FALVEY: Yes.  
24

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1 BY MR. PLATT:  
2 Q Okay. So Conversation 1, it looks  
3 like Mr. Donelson says that it took place sometime  
4 between November 2017 and February 2018 and dealt  
5 with the classification of the entity as an IB.  
6 Is that -- did I read that correctly?  
7 A You did.  
8 Q And Conversation 2 has the same time  
9 frame, November 2017 through February 2018, and  
10 it dealt with the need for me, meaning Donelson,  
11 to be registered as an associated person. Do you  
12 agree with that reading of this little summary?  
13 A You said No. 2? I would -- it was the  
14 need of him to be registered as a principal upon  
15 acquisition.  
16 Q Thank you for that clarification.  
17 So your understanding of Conversation 2, which  
18 according to Exhibit 355 took place between November  
19 and February -- November 2017 and February 2018,  
20 only related to Mr. Donelson's requirement to be  
21 registered as a principal, not as an associated  
22 person. Do I understand your testimony correctly?  
23 A Not necessarily. It deals with  
24 Mr. Donelson wasn't registered at the time but

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1 must be disclosed as a principal when he acquired  
2 ownership interest. He was taking the Series 3,  
3 and upon his completion of the Series 3 he had to  
4 be registered as an associated person.  
5 Q We'll come back to Conversation 2 later  
6 in the deposition. And then Conversation 3 looks  
7 like it took place sometime in February of 2018 and,  
8 again, dealt generally with Mr. Donelson's --  
9 whether or not Mr. Donelson had to be registered  
10 as an associated person. Do you agree with that?  
11 A That's what it says, yes. I think it  
12 encompasses more.  
13 Q Okay. We'll come back to Conversation 3  
14 as well. And then Conversation 4, fast forward a  
15 couple months to June, the first two weeks of June  
16 2018, again the topic of this conversation looks  
17 like it dealt with Mr. Donelson's requirement to  
18 register as an associated person. Do you generally  
19 agree with that?  
20 A Well, that's what it says, yes.  
21 Q Okay, yeah. And I'm only asking, to  
22 make sure we're talking about the same thing, when  
23 we talk about the conversations that are listed on  
24 Exhibit 355. So turning back to Conversation 1,

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1 what we've been calling Conversation 1, Mr. Donelson  
2 writes in his interrogatory response, "We discussed  
3 the classification of the entity as an IB. We  
4 reviewed the requirements, looked at the ongoing  
5 review of the NFA and information provided by  
6 Mr. Evans. Based on information provided from  
7 these sources, it was concluded that the  
8 registration was correct." Did I read that summary  
9 accurately?  
10 A You did.  
11 Q The entity in this summary of  
12 Conversation 1 means Long Leaf Trading Group,  
13 correct?  
14 A Correct.  
15 Q What is an IB?  
16 A Introducing broker.  
17 Q At the time this conversation took  
18 place Long Leaf was registered as an introducing  
19 broker, is that right?  
20 A That's correct.  
21 Q How do you know that?  
22 A NFA BASIC listed it as an introducing  
23 broker. We may have at this time requested the  
24 registration file from the NFA and they listed it

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1 as an introducing broker, and the type of entity  
2 Mr. Donelson was looking to buy was an introducing  
3 broker.  
4 Q So you recall seeking information  
5 from the NFA, either through BASIC or from its  
6 files, concerning the registration status of Long  
7 Leaf Trading around this time?  
8 A Yes, we requested the registration file.  
9 I don't know exactly the timing of that, but that  
10 is the normal course, yeah.  
11 Q And just so the record is clear, what is  
12 NFA BASIC?  
13 A It's a database as to the registration  
14 history of introducing brokers, associated persons,  
15 CTAs, CPOs, FCMs.  
16 Q And you know how to access NFA BASIC.  
17 I'm sure you do it all the time, or have done it  
18 all the time.  
19 A Before it was on computer, yes.  
20 Q But now that it's on the computer, are  
21 you able to access it?  
22 A Yes.  
23 Q Do you recall the conversation that we've  
24 been calling Conversation 1?

<p style="text-align: right;">Page 41</p> <p>1 A Do I recall? I think it's a synopsis 2 of a series of conversations and, yes, we looked 3 into whether or not they were properly registered as 4 an introducing broker, and they were. And that was 5 the type of business activity that was represented 6 to us. 7 <b>Q Exhibit 355, which is the regulatory</b> 8 <b>conversations PDF, lists a date range of three</b> 9 <b>months that spans before Donelson bought the</b> 10 <b>company and after Donelson bought the company.</b> 11 <b>Do you recall whether or not any of these series</b> 12 <b>of conversations concerning the registration status</b> 13 <b>of Long Leaf Trading Group occurred before Donelson</b> 14 <b>bought the business?</b> 15 A Yes. I mean, that was an important 16 part, to make sure that it was -- we were buying 17 a registered introducing broker. 18 <b>Q Did any of the conversations you've</b> 19 <b>described occur after the sale closed sometime</b> 20 <b>in December 2017?</b> 21 A There would have been ongoing 22 conversations based on documents that were now 23 given to Mr. Donelson to confirm the accuracy of 24 those representations of an introducing broker.</p>	<p style="text-align: right;">Page 43</p> <p>1 was properly registered. 2 <b>Q So your testimony is, yes, you</b> 3 <b>recall specific conversations after the deal</b> 4 <b>closed concerning the registration status of Long</b> 5 <b>Leaf Trading?</b> 6 A I recall we discussed it, yes. 7 <b>Q Sorry to belabor the point, Ms. Wing.</b> 8 <b>When you say "that," what do you mean?</b> 9 A The issue of registration as an IIB for 10 Long Leaf Trading. 11 <b>Q And you recall discussing that issue</b> 12 <b>after the sale closed?</b> 13 A Yes, in the context of what is required 14 of an IIB at the time versus a non-guaranteed IB. 15 <b>Q Where did these conversations take place?</b> 16 A Probably on the -- most of them 17 on the phone, some in my office, some after the 18 close with -- probably then at Long Leaf's office. 19 <b>Q Was anyone else present for these</b> 20 <b>conversations?</b> 21 A I don't know if there were anybody 22 else present, definitely not at my office, and 23 I was aware of no one else on the phone when we 24 had phone calls. There were brokers around at</p>
<p style="text-align: right;">Page 42</p> <p>1 <b>Q What documents are you referring to?</b> 2 A Oh, just compliance laws and other 3 items that was part of the purchase. Do I recall 4 specific conversations after the close, no. 5 <b>Q To be clear about your recollection</b> 6 <b>of the way that Conversation 1 took place, you</b> 7 <b>do have a specific recollection of discussing Long</b> 8 <b>Leaf Trading's registration status with Mr. Donelson</b> 9 <b>before the sale closed but you do not have a</b> 10 <b>specific recollection of such a conversation</b> 11 <b>after the sale closed, is that accurate?</b> 12 A I don't know if I would say that 13 was accurate. We talked about being registered 14 as an IB, but I don't recall specific dates of 15 conversations. It was a collective conversation 16 over a group of time. 17 <b>Q Do you remember any specific</b> 18 <b>conversations after the sale closed on the issue</b> 19 <b>of whether or not Long Leaf Trading was properly</b> 20 <b>registered as an introducing broker?</b> 21 A I probably -- I remember talking 22 about the duties of an IB and requirements to 23 confirm that Long Leaf was conducting itself in 24 that course, which would mean whether or not it</p>	<p style="text-align: right;">Page 44</p> <p>1 Long Leaf's office, but they were not part of the 2 communications group. Could they have overheard, 3 maybe, maybe not. I don't know. They shouldn't 4 have been eavesdropping. 5 <b>Q Do you have any notes reflecting these</b> 6 <b>conversations having taken place?</b> 7 A No, I'm not a big note taker. 8 <b>Q So it's your normal practice to not take</b> 9 <b>notes to memorialize conversations?</b> 10 A That's correct. I find it's more 11 important to listen to what people are saying than 12 to worry about writing things down. 13 <b>Q I'm going to put Exhibit 355 back up</b> 14 <b>on the screen because I want to ask about some of</b> 15 <b>these specific terms that Mr. Donelson has written</b> 16 <b>here. Do you see where he writes, "We reviewed the</b> 17 <b>requirements"?</b> 18 A Yes. 19 <b>Q What requirements did you and Mr. Donelson</b> 20 <b>review during Conversation 1?</b> 21 A Well, I of course don't know what 22 he's specifically referring to, but we reviewed 23 regulations. 24 <b>Q Do you remember what regulations</b></p>

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1 **you reviewed with Mr. Donelson as part of**  
2 **Conversation 1?**  
3 A Oh, the NFA rules concerning  
4 introducing brokers, registration rules, the  
5 CFTC rules. Forgive me. I don't recall now off  
6 the top of my head the rule numbers without going  
7 through the rule book, but we reviewed CFTC and NFA  
8 rules and regulations.  
9 **Q And for the NFA rules that you just**  
10 **described, you said that they concerned introducing**  
11 **brokers. Did the CFTC rules that you reviewed also**  
12 **concern introducing brokers?**  
13 A Yes, what is an introducing broker.  
14 Most of it is memorialized in the NFA rules on the  
15 day-to-day requirements.  
16 **Q Did you review any rules**  
17 **concerning commodity trading advisors as part**  
18 **of Conversation 1?**  
19 A I probably did, yes.  
20 **Q What makes you say you probably did?**  
21 A Because I would have reviewed all the  
22 registration rules. That's normal. And it was  
23 based on our understanding of the activity. They  
24 were not registered as the CTA or CPO and they

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1 were not doing activity that required registration  
2 as a CTA or CPO, as represented by Mr. Evans and  
3 the documents that were provided as reflected on  
4 the NFA audit sheet report.  
5 **Q Between November 2017 and February 2018**  
6 **did you advise Mr. Donelson that Long Leaf Trading**  
7 **was not required by the Commodity Exchange Act and**  
8 **CFTC regulations to register as a commodity trading**  
9 **advisor?**  
10 A Based on the representations  
11 that were provided by Mr. Evans and the type of  
12 business and based upon a review of the NFA audit  
13 report, it did not appear that Long Leaf Trading was  
14 operating other than an introducing broker. And so,  
15 therefore, the discussion was they had -- they were  
16 properly registered as an introducing broker.  
17 **Q I just want to make sure that**  
18 **I understand your answer to my question, Ms. Wing.**  
19 **Does that mean that you advised Mr. Donelson that**  
20 **Long Leaf Trading was not required to register as**  
21 **a commodity trading advisor between November 2017**  
22 **and February 2018?**  
23 A Based upon the representations that  
24 Long Leaf was not engaging in any activity as

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1 a commodity trading advisor, yes, they were not  
2 required to register as a CTA.  
3 **Q So I think I'm getting -- I'm**  
4 **asking a slightly different question. Did you**  
5 **tell Mr. Donelson that Long Leaf Trading was not**  
6 **required to register as a commodity trading advisor**  
7 **between November 2017 and February 2018?**  
8 A We had discussions about the nature  
9 of trading and the nature of business Long Leaf  
10 did and what registrations would be required.  
11 Did I come out and say you don't have to register  
12 as a CTA, I don't recall saying that. But I  
13 recall confirming that they were not engaging in  
14 any commodity trading advisor activity based on the  
15 representations from Mr. Evans and the documents he  
16 provided and the documents the NFA provided.  
17 **Q So in this -- in Conversation 1, in**  
18 **Donelson's conversation -- summary of Conversation 1**  
19 **he writes we looked at the ongoing review of the**  
20 **NFA and information provided by Mr. Evans, and I**  
21 **think you referenced those two items in sort of the**  
22 **factual underpinnings of your assessment of Long**  
23 **Leaf Trading's registration status. What does**  
24 **this mean by review of the NFA, ongoing review**

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1 **of the NFA? What is that?**  
2 A I didn't write it so I don't know what  
3 Mr. -- you're asking me what Mr. Donelson meant  
4 by him writing something. It is just an assumption  
5 on my part. I wouldn't have worded it that way.  
6 We reviewed the NFA file, registration file and  
7 audit report.  
8 **Q What is the NFA audit report you're**  
9 **talking about?**  
10 A They did -- it's called an audit.  
11 They would -- they were audited by the NFA and NFA  
12 would write up their findings in an audit report.  
13 **Q What aspect of Long Leaf Trading's business**  
14 **was audited by the NFA before November 2017?**  
15 A Well, I assume all aspects of it.  
16 **Q What information was in the audit --**  
17 **in the NFA audit report that you reviewed before**  
18 **Conversation 1 took place?**  
19 A The actual audit report. I don't recall  
20 which one. There were several audit reports and I  
21 don't recall the timing of those audit reports.  
22 **Q Did Mr. Donelson provide the audit**  
23 **report to you?**  
24 A I don't recall whether I requested



<p style="text-align: right;">Page 49</p> <p>1 the NFA file or Mr. Donelson did and how it got 2 to us or whether it was provided by Mr. Evans. 3 I don't recall. 4 <b>Q But you recall --</b> 5 A I'm sorry. 6 <b>Q You recall looking at the NFA audit report</b> 7 <b>and having possession of it?</b> 8 A Reviewing it, yes. When I reviewed it, 9 timeline, it's foggy at this point. 10 <b>Q How do you think you got it?</b> 11 A Like I said, it was either my 12 requesting the NFA file, Mr. Donelson requesting 13 the NFA file or it was provided by Mr. Evans' 14 attorney in a request. 15 <b>Q Did it come to you by email do you think?</b> 16 A I have no idea. 17 <b>Q Do you still have it?</b> 18 A I don't know. 19 <b>Q Do you delete emails related to your</b> 20 <b>legal practice?</b> 21 A No, but I don't -- I've had some 22 computer technical issues. I don't have the 23 technical -- I don't have an IT officer, just 24 me. So depending on the time it was, it should</p>	<p style="text-align: right;">Page 51</p> <p>1 of the audit of first, you know, the financial, 2 the compliance activities review. They would have 3 reviewed broker recommendations, advertising. 4 Back then Long Leaf was an independent IB, so there 5 would have been a financial review. So those items 6 would have been covered or may have been covered. 7 Not all of them are always covered. 8 <b>Q You also mentioned that you based your</b> 9 <b>assessment of Long Leaf's registration status on</b> 10 <b>information you received from Mr. Evans. And I</b> 11 <b>know this is going back a ways, but what information</b> 12 <b>did Mr. Evans provide you that was germane to your</b> 13 <b>analysis of whether or not Long Leaf Trading was</b> 14 <b>required to register as a commodity trading advisor?</b> 15 A Whether they took discretion over 16 any account, whether they developed the trading 17 strategy, did all clients follow the same trading, 18 and I believe at the time they said that they may 19 have had a few discretionary accounts but they were 20 not a big part of the business and the majority 21 of their accounts were self-directed and they 22 obtained -- there was permissions to enter and 23 exit every trade. 24 <b>Q What do you mean by discretion over</b></p>
<p style="text-align: right;">Page 50</p> <p>1 have been there. 2 <b>Q You use Microsoft Outlook for your email,</b> 3 <b>right, Ms. Wing?</b> 4 A Yes, and Gmail and a few others depending 5 on -- 6 <b>Q Which email address did you use when</b> 7 <b>you were representing Mr. Donelson?</b> 8 A The rebeccajwing@outlook.com. But 9 I've had a computer crash that destroyed some 10 of my documents, and my practice is to remove 11 emails and put them in a stored file. So I have 12 limited storage on email so I don't -- I haven't 13 looked and it may or may not be there. It may 14 have come by email. It may have come by mail. 15 I got a lot of hard documents back then. 16 <b>Q In 2017 you were still receiving</b> 17 <b>hard documents in connection with your business?</b> 18 A Well, the NFA can make a document 19 request and mail it out in hardcopy back then. 20 So if it came from my request from the NFA, it would 21 have been a hardcopy. 22 <b>Q What kinds of information are contained</b> 23 <b>in NFA audit reports of the type you're referencing?</b> 24 A They would -- they're assessments</p>	<p style="text-align: right;">Page 52</p> <p>1 <b>the account?</b> 2 A A discretionary account would mean 3 that a client gave permission to the broker to 4 trade the account without obtaining permission for 5 every activity of placing an order or exiting an 6 order in the market or the type of commodity or 7 futures trades. 8 <b>Q How do introducing --</b> 9 A I'm sorry. 10 <b>Q How do introducing brokers typically obtain</b> 11 <b>discretion over an account?</b> 12 A It would need to be a managed -- 13 well, the FCM that they trade with would have 14 managed account paperwork that would need to be 15 completed. 16 <b>Q Did that include something called the</b> 17 <b>power of attorney?</b> 18 A That's correct. That would be in the 19 managed account paperwork. 20 <b>Q And so your recollection is that</b> 21 <b>Evans represented to you that most of the customers</b> 22 <b>were not managed accounts, were not discretionary</b> 23 <b>traders?</b> 24 A That's correct. I don't recall</p>



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1 if I saw any managed account paperwork in their  
2 customer files that we saw.  
3 **Q What about whether or not Long Leaf**  
4 **developed its own trading strategies, what did**  
5 **Mr. Evans tell you about whether or not Long Leaf**  
6 **developed its own trading strategies?**  
7 A He did not tell me. I didn't have  
8 an individual conversation with Mr. Evans. I can  
9 tell you that he represented to Mr. Donelson, who  
10 represented to me, that there were not -- that they  
11 were not using a standardized trading system, that  
12 they had -- they were broker-assisted accounts and  
13 they may have had a recommended trade, that they  
14 would reach out to the customers to see if the  
15 customers wanted to enter those trades.  
16 **Q But these were trades -- you understood**  
17 **that they were trades that Long Leaf came up with,**  
18 **not like some third-party service, right?**  
19 A I didn't -- I wasn't aware if they  
20 were using a third-party service. I'm sure there  
21 were some clients that used third-party service  
22 themselves that may or may not have been disclosed  
23 on the trading recommendation. But, no, it  
24 was my understanding that the brokers themselves

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1 adjusted certain trades but that they did not have  
2 discretion.  
3 **Q Okay. So of these recommended trades**  
4 **that you referenced, were you provided with any**  
5 **information indirectly from Mr. Evans about whether**  
6 **or not Long Leaf Trading devised those trades or**  
7 **obtained those trades from a third party?**  
8 A It was my recollection that they  
9 devised the trades at the time. I don't know if  
10 that was my recollection later on.  
11 **Q Can you explain how your recollection**  
12 **may have changed?**  
13 A Based upon your investigation of what  
14 Long Leaf did prior to the purchase.  
15 **Q Just so the record's clear, Ms. Wing,**  
16 **did you understand that of the trades that Long Leaf**  
17 **recommended to its customers, did you understand**  
18 **that those trades were devised by Long Leaf Trading**  
19 **personnel or that they got them from a third party?**  
20 A During the time frame we're talking about,  
21 it was my understanding that they were devised by  
22 Long Leaf itself.  
23 **Q And you also said that indirectly**  
24 **from Mr. Evans before Mr. Donelson purchased the**

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1 **company, you learned that not all clients followed**  
2 **the same trading strategy. Did I hear that**  
3 **correctly?**  
4 A Yes, that many -- I mean, they were  
5 nondiscretionary clients trading their own account  
6 but they -- many of them were broker assisted,  
7 meaning that the brokers themselves suggested  
8 some trades.  
9 **Q So of the broker-assisted clients,**  
10 **Ms. Wing, indirectly from Mr. Evans did you learn**  
11 **that those customers received the same trading**  
12 **recommendations or different trading**  
13 **recommendations?**  
14 A They received -- at the time I believe  
15 they received similar trading, but it varied on  
16 account size, the account risk tolerance. Not all  
17 customers executed the suggestions. They didn't  
18 follow the broker's advice.  
19 **Q Did Mr. Donelson provide you**  
20 **with any information before the sale closed that**  
21 **informed your advice about whether or not Long Leaf**  
22 **Trading was required to register as a commodity**  
23 **trading advisor other than the two sources you've**  
24 **indicated, which are indirectly through Mr. Evans**

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1 **or the NFA audit?**  
2 A That would be the only evidence he  
3 would have -- or documentation he would have at  
4 that time, yes.  
5 **Q So the answer is, no, there's no other**  
6 **sources of information that you relied on when you**  
7 **came to your legal conclusion that Long Leaf Trading**  
8 **did not need to register as a commodity trading**  
9 **advisor in or around November of 2017?**  
10 A I believe that's a correct statement.  
11 **Q And to summarize the information that**  
12 **you learned from Mr. Evans in or around November**  
13 **of 2017 about Long Leaf's business activities, it**  
14 **sounds like you learned that most of Long Leaf's**  
15 **customers were nondiscretionary customers but there**  
16 **were some customers that engaged in broker-assisted**  
17 **trading, is that right?**  
18 A Yes.  
19 **Q And among the broker-assisted**  
20 **trading customers, they would receive similar**  
21 **trade recommendations but the differences might**  
22 **vary based on the account size or the customer's**  
23 **risk tolerance, is that right?**  
24 A Correct.

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1    **Q** But the underlying trade, the contract  
2    underlying the strategy would be the same, is that  
3    right?  
4    A Yeah. I mean, were they trading corn,  
5    were they trading wheat, were they -- I mean, yes,  
6    I believe the underlying contract was the one that  
7    the broker had done the research in.  
8    **Q** Right, and that's what I'm getting  
9    at. That's helpful. And you also understood  
10   based on information provided to you by Mr. Evans  
11   that sometimes customers would not execute the  
12   recommended trades but sometimes they would?  
13   A Yes, and sometimes they would exit  
14   quicker than the recommended time frame to hold  
15   the trade for.  
16   **Q** Did you receive any information  
17   from Mr. Evans about the frequency with which  
18   customers would not execute the recommended trades?  
19   A I don't -- I think -- no, I don't  
20   recall that specifically the way you phrased it.  
21   **Q** What about the way that I phrased  
22   it sort of brings it out of your recollection?  
23   A Boy, that's a hard question.  
24   **Q** Let me try and rephrase because I agree

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1    with you it's probably a poorly formed question,  
2    so let's try it again. We're discussing Long Leaf's  
3    business model and when you learned about it from  
4    Tim Evans in November of 2017 before Mr. Donelson  
5    bought the company, okay? And you said that there  
6    were broker-assisted nondiscretionary accounts who  
7    received trading recommendations that had the same  
8    underlying components but varied based on the size  
9    of the account or the customer's risk tolerance.  
10   Do I have that right?  
11   A Yes.  
12   **Q** Did you learn anything from Mr. Evans  
13   about the frequency with which customers did not  
14   execute the recommended trades?  
15   A No, except that every customer gave  
16   their approval or disapproval per every trade.  
17   **Q** So you didn't know if 90 percent  
18   of recommendations were accepted or 10 percent  
19   of recommendations were accepted, is that right?  
20   A That is correct. But what we did know  
21   is 100 percent that were approved activities per  
22   each trade, they contacted each customer, they got  
23   their permission or the permission was rejected  
24   to enter those trades.

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1    **Q** Did you learn any information from  
2    Mr. Evans in November of 2017 about how frequently a  
3    customer would deviate from the recommended trades?  
4    A I don't recall receiving anything at  
5    that -- in November.  
6    **Q** Did you receive information of that nature  
7    at any time?  
8    A I don't recall right now off the top  
9    of my head, except for verification that every  
10   customer authorized every trade and that several  
11   customers traded more than what was recommended  
12   and traded less.  
13   **Q** I think you also mentioned that  
14   you reviewed documents that you received from  
15   Mr. Donelson that had been provided to Mr. Donelson  
16   from Mr. Evans. Do you remember that?  
17   A That I received documents -- say it again.  
18   I'm sorry. I got distracted.  
19   **Q** I'm talking about -- I'm generally  
20   asking about the sources of information that  
21   you had in November of 2017 when you advised  
22   Mr. Donelson that Long Leaf Trading was properly  
23   registered as an introducing broker. And I think  
24   you mentioned the NFA audit as one source of

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1    information?  
2    A Yes.  
3    **Q** You mentioned information that you  
4    received from Donelson that he was relaying from  
5    Evans, right?  
6    A Well, Mr. Donelson brought information  
7    to my office and we reviewed them, yes, that he  
8    received from Mr. Evans.  
9    **Q** And I think you also mentioned that  
10   Mr. Donelson provided you with documents that  
11   he had received from Mr. Evans. Did I hear that  
12   correctly? Was that a source of information that  
13   you relied on?  
14   A I relied on documents that Mr. Donelson  
15   received from Mr. Evans of -- be it directly or  
16   through the business broker or whoever.  
17   **Q** Do you remember what those documents were?  
18   A There were runs, commission runs  
19   and a whole stack of reports that -- oh, I'm losing  
20   my train of what you used to call the report in  
21   the back office system, you know, those reports.  
22   CQG, no? Is it CQG? Sorry. I haven't been in  
23   that field for a little bit, but there were the  
24   reports that they would -- Long Leaf would receive

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1 from their carrying broker listing activities  
2 and trades and exception reports. There were  
3 financial reports audited from Long Leaf's auditors  
4 and compliance reports. There were, again, the NFA  
5 reports from audits.  
6 **Q Other than the NFA audit that you**  
7 **referenced, information relayed to you verbally**  
8 **by Mr. Donelson that he received from Mr. Evans and**  
9 **these documents that you have just listed, do you**  
10 **recall any other sources of information that formed**  
11 **the basis for your analysis that Long Leaf Trading**  
12 **did not have to register as a commodity trading**  
13 **advisor in November 2017?**  
14 A At this moment, no.  
15 **Q Would anything refresh your recollection?**  
16 A I -- at this point I don't know if anything  
17 would.  
18 **Q You've got a client file, right, for Long**  
19 **Leaf?**  
20 A Yes, but I wouldn't have retained  
21 the client submission documents Mr. Donelson  
22 brought. I mean, we sat down together and went  
23 through it.  
24 **Q What I'm getting at is if you went**

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1 **and looked at your client file, you don't think**  
2 **there would be anything else that would jog your**  
3 **memory about other sources of information --**  
4 A I doubt it because Mr. Donelson kept  
5 most of those records. I mean, he would -- he  
6 brought the records to my office to review that  
7 he would have received from the business broker  
8 or Mr. Evans. I may have had the NFA reports and  
9 stuff from BASIC in my files, but that we already  
10 discussed.  
11 **Q Before you provided Mr. Donelson with**  
12 **your legal advice that Long Leaf Trading did not**  
13 **need to register as a commodity trading advisor in**  
14 **November 2017, what was your understanding of Long**  
15 **Leaf's business model?**  
16 A That they were an inter -- operating  
17 purely as an introducing broker, an independent  
18 introducing broker, and that they were -- they had  
19 accounts that were broker assisted where they would  
20 recommend trades. I believe there was a few clients  
21 that had -- they had discretion over that was a  
22 holdover from them acquiring some other business,  
23 but that I don't recall, I don't have information  
24 about, but that they were a small introducing

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1 broker. They had very few IB -- or APs, and they  
2 all sat in the same location.  
3 **Q Before you concluded that Long Leaf**  
4 **Trading did not have to register as a commodity**  
5 **trading advisor in November 2017, did you have**  
6 **an understanding that Long Leaf Trading sold and**  
7 **marketed a trading program called Time Means Money?**  
8 A Did I have an understanding of that  
9 one? I don't know if I was aware of Time Means  
10 Money at that time.  
11 **Q You don't --**  
12 A I don't remember. It's the timing of  
13 your question. I'm not aware of Time Means Money,  
14 if I was aware of it in November of 2017.  
15 **Q You're not sure if you were aware of it**  
16 **or you were not aware of it?**  
17 A I'm not sure.  
18 **Q Were you aware generally that**  
19 **Long Leaf Trading marketed a trading program**  
20 **in November 2017 before you advised Mr. Donelson**  
21 **that Long Leaf Trading did not need to register**  
22 **as a commodity trading advisor?**  
23 A I don't know if what they marketed was  
24 in their marketing file that I saw.

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1 **Q Setting aside whether or not it was**  
2 **in a marketing file, did you know that Long Leaf**  
3 **Trading, part of their business model was a trading**  
4 **program?**  
5 A I don't believe I knew that at the time.  
6 **Q But you knew that there were trading**  
7 **recommendations made for broker-assisted customers**  
8 **at that time, right?**  
9 A Correct.  
10 **Q Okay. And did you receive any**  
11 **information concerning Long Leaf Trading's revenue**  
12 **sources before you concluded that Long Leaf Trading**  
13 **did not have to register as a commodity trading**  
14 **advisor in November 2017?**  
15 A We received those runs that -- from back  
16 office that I referenced, the report.  
17 **Q Did you have any way to know in**  
18 **November 2017 before you advised Donelson that**  
19 **Long Leaf Trading did not need to register as a**  
20 **commodity trading advisor what proportion of Long**  
21 **Leaf Trading's revenues were associated with the**  
22 **broker-assisted trading recommendations?**  
23 A I assumed the majority of it was  
24 because these are brokers that gave trading

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1 recommendations. Do I know which accounts were  
2 or were not, no. We did not have all that data.  
3 **Q But just so I have it right, you**  
4 **assumed in November 2017 that the majority of**  
5 **Long Leaf Trading's revenue was associated with**  
6 **the broker-assisted trading recommendations, is that**  
7 **right?**  
8 A Correct, based on their representations.  
9 **Q Right. And what's the -- okay. And**  
10 **information you received from Evans was the basis**  
11 **for that understanding?**  
12 A Correct.  
13 **Q And when you say majority, can you**  
14 **be more specific? Like 90 percent, 50 percent,**  
15 **51 percent?**  
16 A No, I can't be specific at this time.  
17 **Q Yeah.**  
18 A No.  
19 **Q Do you have any reason to believe that**  
20 **it wasn't 90 percent or more?**  
21 A I can't speculate as to the percentage.  
22 **Q But you understood that it was a**  
23 **majority of Long Leaf Trading's recommendations?**  
24 A Over 50 percent.

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1 **Q Ms. Wing, you referenced these**  
2 **broker-assisted customers and you also referenced**  
3 **that at the time Mr. Donelson bought the firm,**  
4 **Long Leaf Trading had some totally self-directed**  
5 **customers who were not part of this broker-assisted**  
6 **trading program. Did you receive any information**  
7 **in November 2017 concerning the proportion of**  
8 **Long Leaf Trading's customers that received these**  
9 **broker-assisted trading recommendations?**  
10 A No, I don't recall what we received.  
11 **Q So, Ms. Wing, earlier you explained**  
12 **that you advised Mr. Donelson in November 2017**  
13 **that the introducing broker registration status**  
14 **for Long Leaf Trading was correct, and I think**  
15 **the implication was that Long Leaf Trading did not**  
16 **have to register as a commodity trading advisor.**  
17 **Is that fair?**  
18 A That based on the representations and the  
19 documents provided, yes, that they were functioning  
20 purely as an introducing broker.  
21 **Q And then Donelson bought the firm.**  
22 **The stock purchase agreement is dated December 1,**  
23 **2017. Did there ever come a time when Donelson**  
24 **provided you with additional information and**

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1 **asked you to reassess your analysis of whether**  
2 **or not Long Leaf Trading was required to register**  
3 **as a commodity trading advisor?**  
4 A There came a time when you presented  
5 an audit question, yes. I don't recall whether  
6 it was you or the NFA that presented -- that "you"  
7 being the CFTC -- or the NFA that presented that.  
8 **Q By audit question do you mean whether**  
9 **or not Long Leaf Trading should have registered**  
10 **as a commodity trading advisor?**  
11 A Yes.  
12 **Q Do you recall approximately when that**  
13 **occurred?**  
14 A Sorry, Joe. I don't recall.  
15 **Q Was it --**  
16 A I've had a lot of deps, a husband  
17 that had quadruple bypass surgery just recently.  
18 I'm lucky if I can recall my name right now.  
19 **Q I can appreciate that. Thank you for**  
20 **that clarification. So when the NFA or the CFTC**  
21 **raised the question of whether or not Long Leaf**  
22 **Trading was required to register as a commodity**  
23 **trading advisor, did Mr. Donelson provide you**  
24 **with any other additional factual information**

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1 **that was germane to your analysis?**  
2 A Yes, he -- we confirmed that he, Long  
3 Leaf at the time, received client authorization  
4 on every single trade. And he had several clients,  
5 Long Leaf did, that would not execute the  
6 recommended trade, that doubled or even -- I think  
7 one even tripled the recommendation and several who  
8 would not hold the trade as long as the strategy  
9 requested. He reconfirmed all that, Mr. Donelson  
10 did.  
11 **Q When Mr. Donelson asked you to confirm**  
12 **your analysis that Long Leaf Trading did not need**  
13 **to register as a commodity trading advisor, did he**  
14 **provide you with any information concerning the**  
15 **frequency with which customers would deviate from**  
16 **the trading recommendations?**  
17 A Did he provide me with documentation,  
18 I don't know. Did he provide me with his  
19 representation, yes.  
20 **Q I'm not asking about documentation.**  
21 **I'm asking if he told you how commonly or how**  
22 **often customers would deviate from the recommended**  
23 **trades.**  
24 A How often? He said it varied per trade.

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1 Q So it sounds like the answer is no,  
2 he didn't provide you with information about how  
3 often customers deviated from the recommended  
4 trades.  
5 A I wouldn't say that's accurate.  
6 He provided me with information that customers  
7 did deviate, and every trading recommendation they  
8 pretty much had a customer that didn't follow it  
9 or deviated from it.  
10 Q So approximately one customer per trade?  
11 A At least one. There were several others.  
12 It depended on the timing of the market, depended  
13 on the financial environment.  
14 Q Do you know how many customers Long Leaf  
15 Trading has had over the years?  
16 A Not over the years, Joe. I don't recall.  
17 Q Do you think at any particular time  
18 there were more than a hundred customers or fewer  
19 than a hundred customers for Long Leaf Trading?  
20 A I have no idea as I sit here right  
21 now. I don't recall the number. I've had several  
22 clients that had numbers that, you know, over the  
23 years that were not --  
24 Q So this request, to reconfirm your

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1 analysis about whether or not Long Leaf Trading  
2 was properly registered as an introducing broker and  
3 not as a commodity trading advisor, do you recall  
4 whether or not that occurred after the CFTC sent  
5 Mr. Donelson a subpoena?  
6 A It would have been before.  
7 Q How do you know that?  
8 A Because it would have -- the subpoena  
9 didn't start the issue. There was either an NFA  
10 audit request or 4g from the CFTC. I can't remember  
11 which. But something started it and it wasn't --  
12 Q Thank you. That's a helpful clarification.  
13 So it may have been the CFTC's 4g request to Long  
14 Leaf Trading?  
15 A Could be, could be. There was an NFA audit  
16 going on at the same time.  
17 Q And you mentioned that Mr. Donelson  
18 related to you that some customers wished to deviate  
19 from the trading recommendation. Was the deviation  
20 in the number of contracts that would be purchased  
21 or was it in the actual structure of the trade?  
22 A Both, both.  
23 Q So it's your understanding that Long  
24 Leaf Trading had customers who received trading

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1 recommendations that executed their own trades  
2 that did not track the structure of the recommended  
3 trade?  
4 A Correct.  
5 Q Would it surprise you to learn that  
6 Long Leaf Trading has provided discovery responses  
7 to the contrary?  
8 A I don't -- I don't know if it would  
9 surprise me or not.  
10 Q Either way, Donelson told you that --  
11 told you when he asked you to redo your legal  
12 analysis that lots of customers deviated from the  
13 structured trade that was recommended, is that  
14 right?  
15 A A lot is your words. He said customers.  
16 Not every customer --  
17 Q Did you have an --  
18 A Not every customer executed  
19 the strategy. Not every customer entered the  
20 trade. Not every customer exited the trade at the  
21 recommended exit time. Not every customer traded  
22 the quantity.  
23 Q That's helpful. So let me follow  
24 up by asking you this. At the time Mr. Donelson

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1 asked you to confirm your analysis that Long Leaf  
2 Trading was not a commodity trading advisor, what  
3 information did he provide you about how frequently  
4 customers deviated from the recommended trade?  
5 A He said that certain customers did  
6 not execute the trade as recommended. Some of  
7 them passed completely on the trade. Some of them  
8 entered the trade at different quantities. Many  
9 would exit at a time that they suggested -- at a  
10 different time and different exit strategy. But he  
11 did confirm that every single customer was contacted  
12 before trades were entered and before they were  
13 executed, that there was no discretion involved.  
14 Q Did Mr. Donelson tell you at the time  
15 he asked you to reconfirm your legal analysis as  
16 to whether or not Long Leaf Trading was required to  
17 register as a commodity trading advisor whether or  
18 not a majority of his clients followed the trading  
19 recommendations as they were recommended?  
20 A I don't know if he told me that or that  
21 was my understanding.  
22 Q Was it your understanding?  
23 A That a majority -- yes, that he took  
24 no discretion and they were all broker-assisted



<p style="text-align: right;">Page 73</p> <p>1 accounts.</p> <p>2 <b>Q Sorry. I think I'm asking a slightly</b></p> <p>3 <b>different question than the discretion issue. What</b></p> <p>4 <b>I'm asking is what information did Mr. Donelson</b></p> <p>5 <b>provide you when he asked you to reconfirm your</b></p> <p>6 <b>legal analysis that Long Leaf Trading was not</b></p> <p>7 <b>required to register as a commodity trading advisor</b></p> <p>8 <b>concerning whether or not a majority of his clients</b></p> <p>9 <b>followed his trading recommendations as they were</b></p> <p>10 <b>recommended?</b></p> <p>11 A The majority of the clients received his</p> <p>12 trading recommendations, okay? He talked about his</p> <p>13 clients deviating from his trading recommendation</p> <p>14 and that he confirmed that every client approved</p> <p>15 every trade, that there was no discretion taken.</p> <p>16 <b>Q So I want to circle back on that</b></p> <p>17 <b>second point where Mr. Donelson talked about</b></p> <p>18 <b>some deviations from the recommendations. Did</b></p> <p>19 <b>Mr. Donelson explain to you whether or not the</b></p> <p>20 <b>majority of his clients followed the recommendations</b></p> <p>21 <b>as recommended?</b></p> <p>22 A I don't know if he said that or that</p> <p>23 was my assumption.</p> <p>24 <b>Q Was it your assumption?</b></p>	<p style="text-align: right;">Page 75</p> <p>1 Discretion is the cornerstone of that.</p> <p>2 <b>Q Okay.</b></p> <p>3 A You're not going to get me to deviate</p> <p>4 off that point. I have had 35 years on that point,</p> <p>5 okay? So move on, okay?</p> <p>6 <b>Q Okay, okay. I'm just going to stay</b></p> <p>7 <b>here for just one more second because I think</b></p> <p>8 <b>it's important so we understand what your factual</b></p> <p>9 <b>understanding of Long Leaf Trading's business model</b></p> <p>10 <b>was at the time that Mr. Donelson asked you to</b></p> <p>11 <b>reconfirm your analysis that Long Leaf Trading was</b></p> <p>12 <b>not a commodity trading advisor. Let's both assume</b></p> <p>13 <b>that Long Leaf Trading did not exercise discretion</b></p> <p>14 <b>through power of attorney over its customer accounts</b></p> <p>15 <b>and that each customer would either approve or</b></p> <p>16 <b>disapprove of a particular trading recommendation.</b></p> <p>17 <b>Can we start with that agreement?</b></p> <p>18 A Yes, there was no de facto control, yes.</p> <p>19 <b>Q Okay. Well, that's not the factual</b></p> <p>20 <b>premise that I'm talking about, so let me ask</b></p> <p>21 <b>it this way. Did Mr. Donelson ever provide you</b></p> <p>22 <b>with information about whether or not a majority</b></p> <p>23 <b>of his clients followed the trading recommendations</b></p> <p>24 <b>as they were recommended?</b></p>
<p style="text-align: right;">Page 74</p> <p>1 A Yes, but he got discretion -- he got</p> <p>2 authorization.</p> <p>3 <b>Q So, again, I'm not talking about the</b></p> <p>4 <b>authorizing and the discretion. I'm asking you</b></p> <p>5 <b>about what I think you just testified was your</b></p> <p>6 <b>assumption that the majority of Long Leaf Trading</b></p> <p>7 <b>clients followed Long Leaf's trading recommendations</b></p> <p>8 <b>as they were recommended. Do you recall that</b></p> <p>9 <b>testimony?</b></p> <p>10 A I wouldn't say as recommended,</p> <p>11 all of it. That's the problem. I disagree.</p> <p>12 It's my understanding that they recommended the</p> <p>13 trade. Some clients deviated from it, the number --</p> <p>14 that everyone received -- everyone got approval.</p> <p>15 They talked to every single client before the trade</p> <p>16 was entered for that client.</p> <p>17 <b>Q Okay. Thank you for that clarification.</b></p> <p>18 <b>And I'm not asking about whether or not Long Leaf</b></p> <p>19 <b>Trading had discretion over customers' accounts.</b></p> <p>20 <b>Let's assume for now that they did not have</b></p> <p>21 <b>discretion. So we agree, right?</b></p> <p>22 A Yes, but that's the key component</p> <p>23 to determine whether or not somebody's required</p> <p>24 to register as a commodity trading advisor.</p>	<p style="text-align: right;">Page 76</p> <p>1 A In those terms, probably not. He didn't</p> <p>2 sit there and say the majority of my clients follow</p> <p>3 the trading recommendations.</p> <p>4 <b>Q Did he say, you know, most or some?</b></p> <p>5 <b>Did you have any understanding about how many</b></p> <p>6 <b>clients deviated from the trading recommendations?</b></p> <p>7 A The number, no. That there were</p> <p>8 deviations, yes, and the deviations were possibly</p> <p>9 on a consistent basis.</p> <p>10 <b>Q Did you understand that the majority</b></p> <p>11 <b>of Long Leaf's customers deviated from the trading</b></p> <p>12 <b>recommendations?</b></p> <p>13 A At one time or another, yes.</p> <p>14 <b>Q Do you understand that Long Leaf Trading</b></p> <p>15 <b>generally recommended four trades per month?</b></p> <p>16 A It was a small number, yes.</p> <p>17 <b>Q So I'm talking about for any one</b></p> <p>18 <b>particular trading recommendation, what is your</b></p> <p>19 <b>understanding about how many --</b></p> <p>20 A I didn't evaluate -- I didn't</p> <p>21 evaluate it by trade -- each recommendation trade</p> <p>22 by trade by trade. I did not evaluate it that way.</p> <p>23 <b>Q So it was not --</b></p> <p>24 A It's the totality -- I'm sorry. It's</p>



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1 the totality of trades.  
2 **Q Okay, that's helpful. So it was not --**  
3 **are you saying it wasn't relevant to your analysis**  
4 **whether or not a majority of the Long Leaf Trading**  
5 **customers followed the trades as recommended?**  
6 A You're trying to look at a particular  
7 one trade, did they follow a majority. You don't  
8 write a disclosure document for one trade. You  
9 write it for a trading program. So you have to  
10 look at the totality of trading, not just a  
11 single snapshot picture. That's where we're  
12 miscommunicating.  
13 **Q So it sounds like it wasn't something**  
14 **that mattered to you, to evaluate how frequently**  
15 **customers deviated from the trading recommendations,**  
16 **is that right?**  
17 A It did matter if they deviated.  
18 **Q And what was your understanding about**  
19 **how frequently customers deviated?**  
20 A That they had customers that would  
21 not follow the trading recommendations, that  
22 it made -- that that may not have been the same  
23 customer every time that didn't follow the trading  
24 recommendation. That was explained and that they

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1 gave specific answers to customers who exited  
2 earlier, contrary to the recommendation, customers  
3 who executed more trades than what they were  
4 recommending and that customers who delayed getting  
5 in the trade as recommended.  
6 **Q It sounds like you don't know how**  
7 **frequently customers deviated from the recommended**  
8 **trades, is that right?**  
9 A No, that's their -- as I sit here  
10 today, no, but I do know there was deviations,  
11 as was explained to me.  
12 **Q But you didn't know how common it was**  
13 **for customers to deviate, is that fair?**  
14 A That's probably fair, yeah.  
15 **MR. PLATT:** All right. Let's take  
16 a break. Do you want to take a quick bathroom  
17 break or would you like to take a lunch break?  
18 We've been going for a while.  
19 **THE WITNESS:** Fifteen minutes?  
20 **MR. PLATT:** Sure, that's fine with me.  
21 Actually, how about we come back at 12:30.  
22 Give me time to run out and get some coffee.  
23 **MR. FALVEY:** Sure, sounds good.  
24 **MR. PLATT:** All right. Let's go off the

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1 record.  
2 (Whereupon a recess was taken from  
3 12:10 p.m., to 12:32 p.m., after  
4 which the following proceedings  
5 were had:)  
6 **Q Ms. Wing, earlier you testified that**  
7 **you relied on some documents that were provided**  
8 **to Mr. Donelson by Mr. Evans in assessing whether**  
9 **or not Long Leaf should register as a CTA, and one**  
10 **of the items you mentioned was a compliance report**  
11 **I think. What does that mean?**  
12 A Any compliance -- the compliance file  
13 basically.  
14 **Q The company's compliance file?**  
15 A Yes, on current problems.  
16 **Q Like customer complaints or like AML type**  
17 **stuff?**  
18 A Both.  
19 **Q Thank you. And you mentioned**  
20 **audited financials. Were those -- those were**  
21 **Long Leaf's financials, the reports provided by**  
22 **its outside auditor, is that right?**  
23 A That's correct.  
24 **Q And then you also mentioned the NFA**

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1 **audit.**  
2 **MR. PLATT:** I'd like to show you  
3 what I'm going to mark as CFTC Exhibit 357.  
4 (Whereupon CFTC Exhibit No. 357  
5 was marked for identification.)  
6 **Q And this is a letter from the NFA to**  
7 **Tim Evans dated January 12, 2017, and this is a**  
8 **summary letter from the NFA describing its audit**  
9 **findings. Do you recognize this kind of letter?**  
10 A Do I recognize this particular letter?  
11 I don't know until I read all the way through it.  
12 Do I recognize this type of letter, yes.  
13 **Q Okay. And what do you recognize**  
14 **this kind of letter as, not this specific letter?**  
15 A I would call it an audit summary.  
16 **Q Is this what you -- is this what you**  
17 **were referring to like when you were describing**  
18 **the NFA audit that you relied on?**  
19 A We -- yes, something similar, yes.  
20 I don't know if we were provided with this one.  
21 I will have to look at it further down the road --  
22 I mean, further down.  
23 **Q Okay. So you can see this is dated**  
24 **January 12, 2017?**

<p style="text-align: right;">Page 81</p> <p>1 A Yes.</p> <p>2 Q It's addressed to Mr. Evans and it's</p> <p>3 two pages long, or two pages long with a little</p> <p>4 bit of a spillover and it's signed by Ryan Ahlfeld</p> <p>5 from the NFA. Do you think this may have been the</p> <p>6 letter that you were -- the NFA audit summary that</p> <p>7 you were referring to?</p> <p>8 A Can you scroll up?</p> <p>9 Q Sure.</p> <p>10 A Now scroll down. Okay. Next page,</p> <p>11 please. Next page. Okay. I do believe this is</p> <p>12 one of the documents provided.</p> <p>13 Q Were there any other materials from</p> <p>14 the NFA other than summary letters of this kind</p> <p>15 that you relied on?</p> <p>16 A The registration file.</p> <p>17 Q And in the registration file -- or</p> <p>18 excuse me. What kind of documents are in the Long</p> <p>19 Leaf registration file?</p> <p>20 A Oh, you're really testing my memory</p> <p>21 now. That IB 7-R, the form filled out by the --</p> <p>22 Long Leaf to register, the individual associated</p> <p>23 person's registration file. They would include --</p> <p>24 I believe they include those letters from the</p>	<p style="text-align: right;">Page 83</p> <p>1 A Or thereabouts before the closing.</p> <p>2 Q And you're not sure when the</p> <p>3 second conversation took place but it may have</p> <p>4 been triggered by the CFTC's 4g request, is that</p> <p>5 right?</p> <p>6 A It may -- that would be most likely, yes.</p> <p>7 Q And at the time of the 4g request</p> <p>8 Donelson had been the principal of the firm for</p> <p>9 at least a few months, right?</p> <p>10 A Not very long.</p> <p>11 Q But long enough to know the way that</p> <p>12 the company operated, is that fair?</p> <p>13 A I think there's some evidence of</p> <p>14 brokers acting outside of what he was aware of,</p> <p>15 but otherwise yes.</p> <p>16 Q Okay. And during both conversations</p> <p>17 your conclusion was that Long Leaf Trading did not</p> <p>18 have to register as a CTA. And I think earlier you</p> <p>19 testified that the key factor for you was that Long</p> <p>20 Leaf Trading was not exercising discretion, is that</p> <p>21 accurate?</p> <p>22 A That's one of the very key components,</p> <p>23 yes, discretion.</p> <p>24 Q Did you conduct any legal research</p>
<p style="text-align: right;">Page 82</p> <p>1 NFA audit. Yeah, I can't recall any additional</p> <p>2 items.</p> <p>3 Q Okay, thank you. And in the</p> <p>4 registration file is there a detailed description</p> <p>5 of the company's business model? What information</p> <p>6 is on that document?</p> <p>7 A Oh, I don't recall at this time</p> <p>8 but it's -- on the registration it lists --</p> <p>9 I don't recall what's included in there versus</p> <p>10 FINRA. A broker-dealer, you have to include your</p> <p>11 business plan. I don't recall whether or not</p> <p>12 I had to include the business plan or for an IB.</p> <p>13 Q Okay, thank you. So it sounds like</p> <p>14 based on your testimony earlier that there were</p> <p>15 two different points where you provided legal</p> <p>16 advice to Mr. Donelson, and the takeaway was that</p> <p>17 Long Leaf Trading was properly registered as an</p> <p>18 introducing broker and did not have to register</p> <p>19 as a commodity trading advisor. Is that generally</p> <p>20 correct?</p> <p>21 A Based on the representations made to me,</p> <p>22 correct.</p> <p>23 Q And one was in -- the first conversation</p> <p>24 was in November 2017, right?</p>	<p style="text-align: right;">Page 84</p> <p>1 before providing -- before advising Mr. Donelson</p> <p>2 that he did not need to register Long Leaf Trading</p> <p>3 as a commodity trading advisor?</p> <p>4 A I looked at the rule, of course, and some</p> <p>5 of this is past history.</p> <p>6 Q Do you think you would have looked at</p> <p>7 any CFTC interpretive letters or agency guidance?</p> <p>8 A If they were easily obtainable, yes.</p> <p>9 But the problem is how do you write a disclosure</p> <p>10 document for a trading plan if people don't follow</p> <p>11 the trading plan. It would be misleading, and that</p> <p>12 is the key. We do not provide misleading</p> <p>13 information to customers.</p> <p>14 Q So I think your answer was you would</p> <p>15 have if they were easily locatable. Do you recall</p> <p>16 doing any research into whether or not there were</p> <p>17 any CFTC interpretive letters or agency guidance</p> <p>18 that would be --</p> <p>19 A Probably not.</p> <p>20 Q -- relevant to your analysis? Probably</p> <p>21 not?</p> <p>22 A Sorry. No, that's not what I said.</p> <p>23 I said probably around the 4g request.</p> <p>24 Q Okay.</p>

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1 A To see if there's any changes.  
2 **Q Thank you. I apologize. I misheard**  
3 **you. Do you recall whether or not there were any**  
4 **changes when you reviewed the CFTC agency guidance?**  
5 A I don't believe what I reviewed altered  
6 my assessment.  
7 **Q Do you remember what you reviewed?**  
8 A At this point, no, other than the 4.14  
9 and a few other rules.  
10 **Q What is 4.14 that you just referenced?**  
11 A A CFTC regulation, Section 4.14,  
12 the registration of a commodity trading advisor,  
13 I believe, if I'm using -- if I'm recalling it  
14 right. Ten years ago I would have rattled it  
15 off without even blinking.  
16 **Q So in conducting this legal research,**  
17 **did you maintain a research file or draft any memos**  
18 **to yourself?**  
19 A I don't draft memos to myself at all.  
20 I've never done that in 35 years of practicing  
21 law and, no, because I have the book at my desk.  
22 I wouldn't make copies. I wouldn't have put them  
23 in a file. There's a rule book. I have a section  
24 of the CFTC code. I have the NFA rule book.

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1 I would go online to -- later it came -- I mean,  
2 things are now digital, so no.  
3 **Q How about like notes, did you make any**  
4 **notes to yourself?**  
5 A No. Again, I'm not a copious note taker.  
6 **MR. PLATT:** I'm going to mark as 358  
7 another document.  
8 (Whereupon CFTC Exhibit No. 358  
9 was marked for identification.)  
10 **Q Ms. Wing, do you recognize CFTC**  
11 **Exhibit 358?**  
12 A Yes.  
13 **Q And this is a document --**  
14 A Yeah.  
15 **Q This is the document subpoena we**  
16 **sent to you in connection with this case, right?**  
17 A I believe so.  
18 **Q I'm just going to scroll down to the**  
19 **document requests that are at the end. What we**  
20 **asked you to produce was all documents related to**  
21 **legal advice, including but not limited to notes,**  
22 **memos, research or other attorney work product or**  
23 **attorney-client communications provided by you**  
24 **to Donelson or Long Leaf about the registration**

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1 **issues that are present in this case, and you sent**  
2 **us a document production that was about 78 pages**  
3 **long. Do you recall that document production?**  
4 A You'll have to refresh my memory.  
5 Like I said, I've had a lot of things going on  
6 personally.  
7 **Q But you do recall producing documents**  
8 **to us, right?**  
9 A I was glad I did. Did I forget to  
10 produce it? But, yes, okay. And, yes, that sounds  
11 about the right amount of papers.  
12 **Q Did you search -- did you look for**  
13 **any engagement letters between you and Donelson**  
14 **when you responded to the subpoena?**  
15 A I probably did.  
16 **Q So if you had them and they were**  
17 **easily locatable, you would have produced them?**  
18 A If I thought it fell -- I have not  
19 reviewed the exact definition -- your document.  
20 But if it fell within the documents you were  
21 requesting and there was no objection that I did  
22 not delineate, yes, I would have produced it. But  
23 like I said, I've known Jim 40 years. I was in his  
24 wedding. So I don't know if there would have been

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1 an engagement letter.  
2 **Q Okay. So I'll just sort of make a**  
3 **request on the record if there is an engagement**  
4 **letter between you and Mr. Donelson or you and**  
5 **Long Leaf, that you produce it to us. I don't**  
6 **think there's a valid claim of privilege unless**  
7 **there's, you know, some weird attorney-client**  
8 **communication there. But most engagements don't --**  
9 **most engagement letters don't have privileged**  
10 **content. So I'll just make that request on the**  
11 **record. And if there's nothing then, you know,**  
12 **of course don't produce it.**  
13 **MR. FALVEY:** And I'll check with  
14 Mr. Donelson from his side.  
15 **MR. PLATT:** Thanks.  
16 **Q And then I think it's -- you know, we**  
17 **asked you to confirm that all responsive documents**  
18 **have been produced. So to the extent that you**  
19 **possess any documents that are relevant to your**  
20 **analysis of whether or not Long Leaf Trading was**  
21 **required to register as a CTA, those have been**  
22 **produced to us?**  
23 A That's correct. Documents I had retained.  
24 **Q Did you search your billing records for**

<p style="text-align: right;">Page 89</p> <p>1 responsive documents?</p> <p>2 A I believe so.</p> <p>3 MR. PLATT: Okay. I'm now going to</p> <p>4 share what's been marked as CFTC Exhibit 359.</p> <p>5 Maybe I already marked it.</p> <p>6 (Whereupon CFTC Exhibit No. 359</p> <p>7 was marked for identification.)</p> <p>8 Q Ms. Wing, do you recognize Exhibit 359?</p> <p>9 A I don't know yet until you scroll down.</p> <p>10 Q What is Exhibit 359?</p> <p>11 A It's our document production in the</p> <p>12 Enforcement matter. The Commission, I'm sorry.</p> <p>13 Q Do you recognize --</p> <p>14 A It's the Wells response.</p> <p>15 Q And did you play a role in drafting this</p> <p>16 document?</p> <p>17 A I believe I did.</p> <p>18 Q I'm going to scroll down to page 10</p> <p>19 because that's the relevant part. You can see</p> <p>20 this is page 10 of Mr. Donelson's Wells response.</p> <p>21 Under point Heading C --</p> <p>22 A Yes.</p> <p>23 Q -- the first sentence reads, "Long Leaf</p> <p>24 never acted in the capacity of a Commodity Trading</p>	<p style="text-align: right;">Page 91</p> <p>1 model of becoming a CTA versus where he retains</p> <p>2 discretion over an account. It's about discretion.</p> <p>3 A CTA gets the power of attorney at the beginning</p> <p>4 and they can execute a trading system without</p> <p>5 receiving individual authorization per each trade</p> <p>6 from the customer and an IB doesn't. An IB has to</p> <p>7 talk to each individual customer prior to putting</p> <p>8 on a trade.</p> <p>9 Q And then there's some -- I'm sorry.</p> <p>10 I cut you off.</p> <p>11 A And whether or not the trading strategy</p> <p>12 could be documented in a disclosure document based</p> <p>13 on the method. That's -- those are pros and cons.</p> <p>14 Q So it wasn't like Long Leaf viewed</p> <p>15 registration as a CTA as optional. The question</p> <p>16 was would they change their business model to fall</p> <p>17 within the definition in your view?</p> <p>18 A Correct.</p> <p>19 Q Then there's some content in the</p> <p>20 second paragraph describing how customers would</p> <p>21 authorize each trade based on a recommendation or</p> <p>22 not. And then the concluding sentence is, "Were</p> <p>23 Long Leaf functioning as a CTA, those customers</p> <p>24 would have lost this independent ability to</p>
<p style="text-align: right;">Page 90</p> <p>1 Advisor, nor was it required to be registered as</p> <p>2 such." Did you draft that sentence?</p> <p>3 A I don't know if it was myself or Nick</p> <p>4 drafting what each section is. It was an evolution</p> <p>5 of our work together.</p> <p>6 Q In the second paragraph on page 10,</p> <p>7 I'm just going to read it into the record. It</p> <p>8 says, "Long Leaf, at all times relevant herein, was</p> <p>9 properly registered as an IB -- or as an Introducing</p> <p>10 Broker." And that's the same -- is that the same</p> <p>11 answer? It may have been you, it may have been</p> <p>12 Mr. Iavarone, but you both sort of played a role</p> <p>13 in drafting this portion?</p> <p>14 A That's correct. That's correct.</p> <p>15 Q And then in the third sentence here</p> <p>16 in paragraph 2 it says, "After weighing the pros</p> <p>17 and cons of a CTA, Long Leaf concluded that it</p> <p>18 was better to reach out to each customer to discuss</p> <p>19 the proposed trade, the strategy behind the</p> <p>20 recommendation, and whether the customer desired</p> <p>21 to continue to speculate in an options trading</p> <p>22 strategy." What does it mean to weigh the pros</p> <p>23 and cons of a CTA?</p> <p>24 A Well, it's weighing the business</p>	<p style="text-align: right;">Page 92</p> <p>1 evaluate each recommendation." And, again,</p> <p>2 that's the same answer where you and Mr. Iavarone</p> <p>3 collaborated on this language, is that right?</p> <p>4 A Yes, and I was also relying on his 45 years</p> <p>5 of being a commodity attorney.</p> <p>6 Q So I don't understand this paragraph.</p> <p>7 Can you explain the argument that's present here</p> <p>8 why Long Leaf was not required to register as a</p> <p>9 commodity trading advisor?</p> <p>10 A Because they were not acting as a</p> <p>11 CTA. They were acting as a broker recommending</p> <p>12 a trade to each individual customer and they did</p> <p>13 not obtain discretion. I've kind of said that all</p> <p>14 along. That's not going to vary.</p> <p>15 Q So I don't see any citations to</p> <p>16 authority in this paragraph. Is there a legal</p> <p>17 rule that you're applying?</p> <p>18 A It's the interpretation of the rule</p> <p>19 and, no, there wasn't -- we didn't have to cite</p> <p>20 a legal requirement. It is recommended that you do</p> <p>21 in a Wells submission.</p> <p>22 Q You say it's the interpretation of the</p> <p>23 rule. Whose interpretation of the rule is it?</p> <p>24 A Counsel, myself and Mr. Iavarone.</p>

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1    **Q** So you guys, this is like your, like  
2    **your gut instinct? Like where is it coming from?**  
3    A Mr. Iavarone was -- has been a commodity  
4    attorney for over 45 years. I've been a commodity  
5    attorney approximately 35 years. We have dealt  
6    with CTA issues both representing customers as  
7    well as registrants. So you're talking over  
8    80 years of experience in this industry. This  
9    was our interpretation, not a guess. It has been  
10   our experience in what we've seen and based on our  
11   reading of the rules and the regulations.  
12   **Q Have you seen this concept that**  
13   **exercising discretion is the dispositive factor**  
14   **ever written down in any legal authority ever?**  
15   A Oh, I think there has been some  
16   legal cases that have litigated that. I have  
17   been involved in hundreds of cases, and I don't  
18   recall one but there are -- specifically but I do  
19   recall this concept of discretion being a very  
20   important key part.  
21   **Q But sitting here today you can't**  
22   **identify a rule or a regulation or a statute or**  
23   **an interpretation that would -- that's consistent**  
24   **with that reading?**

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1    A The rule is 4.14, okay? The cases --  
2    there's a lot of cases out there and, no, I don't  
3    recall right this moment. But I didn't go and  
4    review my past cases to see where that rule -- where  
5    there would be an opinion that was similar to this  
6    issue by a court of law or an arbitration panel  
7    or whatever.  
8    **Q What about CFTC guidance, did you look**  
9    **for any CFTC guidance?**  
10   A As I testified before, if the comment  
11   letters were accessible, I would have reviewed  
12   comment letters. And I believe I did review comment  
13   letters. The problem with comment letters is not  
14   all facts are disclosed.  
15   **MR. PLATT:** I'm going to mark CFTC  
16   Exhibit 360.  
17       (Whereupon CFTC Exhibit No. 360  
18       was marked for identification.)  
19   **Q Ms. Wing, are you able to see CFTC**  
20   **Exhibit 360?**  
21   A Yes.  
22   **Q Do you recognize this as a printout of**  
23   **a section of the Commodity Exchange Act?**  
24   A It appears to be, yes.

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1    **Q The heading here says 7 USCA § 1a.**  
2    **Definitions. Do you agree with that?**  
3    A That's what it says, yeah.  
4    **Q I'm going to scroll down to**  
5    **Subsection 12, and you can see I've applied**  
6    **some highlighting here. Twelve is the definition**  
7    **for commodity trading advisor and it reads, "(12)(A)**  
8    **In general. Except as otherwise provided in this**  
9    **paragraph, the term 'commodity trading advisor'**  
10   **means any person who (i) for compensation or profit,**  
11   **engages in the business of advising others, either**  
12   **directly or through publications, writings, or**  
13   **electronic media, as to the value of or the**  
14   **advisability of trading in (III) any commodity**  
15   **option authorized under Section 6c of this title."**  
16   **Do you agree that I have read that accurately?**  
17   A You paraphrased it correctly, yes.  
18   **Q You're right. I did omit some content.**  
19   **Thank you for that clarification. Based on your**  
20   **understanding of Long Leaf's business model, which**  
21   **included providing trading recommendations to**  
22   **customers, do you think Long Leaf satisfied the**  
23   **definition in 7 USCA 1a(12)?**  
24   A Every broker would satisfy that

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1    definition regardless of whether they continued  
2    to act as the CTA or not. It doesn't -- you have  
3    to go further.  
4    **Q Okay, we'll get there. But for this**  
5    **first initial step, do you agree that Long Leaf**  
6    **qualified as a CTA?**  
7    A Yes, they are a broker. I agree that  
8    they have advised and that giving advice is in the  
9    definition of a CTA. That's all I'm going to agree  
10   to.  
11   **Q Okay. So I just want to drill down**  
12   **on that. Do you think that Long Leaf does not**  
13   **meet the definition of a commodity trading advisor**  
14   **in 7 USCA 1a?**  
15   A I don't think that's the only  
16   definition -- the only criteria of it. But --  
17   and so how you are wording it I have an issue with,  
18   okay? I think you're misconstruing the statute. As  
19   I've stated before, every broker would fall within  
20   that definition, whether or not they were a CTA or  
21   not. If they said I think you should get out of  
22   that trade, they're giving trading advice, okay?  
23   So --  
24   **Q So I just want to be clear. I'm not**



<p style="text-align: right;">Page 97</p> <p>1 <b>construing the statute at all. I'm asking you, a</b> 2 <b>lawyer with 35 years of experience in the industry,</b> 3 <b>if you think that Long Leaf's business model does or</b> 4 <b>does not meet the definition of a commodity trading</b> 5 <b>advisor in 7 USCA 1a(12).</b> 6 A Based on the fact that there are 7 additional criteria to fall within a CTA definition, 8 I do not believe it is within that definition. If 9 you're looking at the -- if you're dissecting it 10 and picking out one particular statement, do they 11 give trading advice, then yes. 12 Q So I want to -- sorry. I'm not asking 13 if you think they were required to be registered. 14 I think you don't. I'm asking you if they meet the 15 definition. And your answer is no? 16 A My answer is is you've given only a part 17 of it. There's more to that statute. 18 Q Okay. Let's go back to the definition -- 19 A And let's give me the annotated part of it. 20 Q I'm not sure what you mean by annotated. 21 Let's just -- 22 A Annotated? You're not sure what is meant 23 by the annotated of the statute? 24 Q Why don't you point me to the portion</p>	<p style="text-align: right;">Page 99</p> <p>1 an advisability as to the opening of an account, 2 whether a client is acceptable to trade particular 3 options or whether or not they are advising -- they 4 were advising clients on trades. Yes, they have 5 advised -- if that's the only requirement to be 6 regulated as a commodity trading advisor, absolutely 7 not. 8 MR. PLATT: I'm going to share with you 9 what I'm going to mark as CFTC Exhibit 361. 10 (Whereupon CFTC Exhibit No. 361 11 was marked for identification.) 12 Q And CFTC Exhibit 361 are Long 13 Leaf Trading's answers to the CFTC's first set 14 of requests for admission. Do you see that? 15 A Yes. 16 Q I'm going to scroll down to Request 17 for Admission 2, Long Leaf's answer. It reads, 18 "Long Leaf admits ¶2 that it recommended trades 19 to customers as part of the trading program because 20 Long Leaf Trading believed those trades to be 21 valuable or advisable for the specific period 22 that Mr. Donelson was a principal of Long Leaf." 23 With that in mind, do you continue 24 to disagree that Long Leaf Trading's trading</p>
<p style="text-align: right;">Page 98</p> <p>1 of the statute you need to review to answer the 2 question whether or not Long Leaf Trading meets 3 the statutory definition in 7 USCA 1a(12) or does 4 not meet the statutory definition of a commodity 5 trading advisor. 6 A Scroll down, scroll down. Okay. Keep 7 scrolling, keep scrolling. 8 Q So we're now into different definitions. 9 A Yeah, you should have had an annotated 10 version. So I'm not prepared to respond the way 11 you've worded it. I will say that based upon this, 12 they got paid for advising about trading in options. 13 Q Do you have an understanding 14 of whether or not their advisory services related 15 to the advisability of trading in options? 16 A You lost me, Joe. I didn't -- I mean, 17 sorry. I didn't follow your question. 18 Q Sure. Do you have an understanding 19 as to whether or not Long Leaf Trading's advisory 20 services related to the value or advisability of 21 trading in options? 22 A Whether or not a client should trade 23 in an option? Advisability? I don't know if the 24 recommendation would be of each one. There's</p>	<p style="text-align: right;">Page 100</p> <p>1 recommendations were not made -- were made because 2 Long Leaf believed them to be valuable or advisable? 3 A Of course they would. I mean, I'm 4 not disagreeing with that. I'm disagreeing that 5 that's the only requirement to be -- that you must 6 list to be a CTA. So it is what it is. Of course 7 they would only recommend trades they thought were 8 valuable or advisable. 9 Q Right. And they got paid for making 10 those recommendations, right? 11 A I can't -- what? 12 Q And they got paid for making those 13 recommendations, right? 14 A They received commissions, yes. 15 Q Are commissions compensation? 16 A Yes. 17 Q Thank you. 18 MR. PLATT: I'm going to show you what 19 I'm marking as CFTC Exhibit 362. 20 (Whereupon CFTC Exhibit No. 362 21 was marked for identification.) 22 Q Exhibit 362 is a printout of a different 23 section of the Commodity Exchange Act, Section 7 USC 24 6m. The title is use of mails or other means</p>



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1 or instrumentalities of interstate commerce by  
2 commodity trading advisors and commodity pool  
3 operators. Did I read that title correctly?  
4 A I didn't follow it, but I'd say you did.  
5 Q Subsection (1) here states in the  
6 highlighted portion, "It shall be unlawful for  
7 any commodity trading advisor or commodity pool  
8 operator, unless registered under this chapter,  
9 to make use of the mails or any means or  
10 instrumentality of interstate commerce in connection  
11 with his business as such commodity trading advisor  
12 or commodity pool operator."  
13 Do you agree that this section  
14 requires commodity trading advisors to register  
15 with the CFTC?  
16 A Not technically. It deals with the  
17 use of mail, that in order to make use of mail  
18 or interstate commerce you must be -- a commodity  
19 trading advisor needs to be registered. But it  
20 doesn't -- I mean, I don't agree on the way you've  
21 worded it. I understand -- it says what it says.  
22 Q Okay. And it says that a commodity  
23 trading advisor may not use the means of interstate  
24 commerce unless it's registered. Is that better?

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1 A You've correctly paraphrased what it said.  
2 Q Yeah. And now we're going to get to  
3 Section 4.14, which you referenced earlier.  
4 MR. PLATT: And I'm going to mark this  
5 as CFTC Exhibit 363.  
6 (Whereupon CFTC Exhibit No. 363  
7 was marked for identification.)  
8 Q Do you recognize this as a printout of  
9 17 CFR 4.14 titled Exemption from Registration as  
10 a Commodity Trading Advisor?  
11 A That's what it purports to be.  
12 Q You referenced this regulation earlier.  
13 Does this appear to be the regulation that you were  
14 referencing?  
15 A Yes.  
16 Q I'm going to read what I think  
17 is the relevant part. Let me know if you think  
18 this is not the relevant part. Subsection (a) says,  
19 "A person is not required to register under the Act  
20 as a commodity trading advisor if: Subsection (6)  
21 It is registered under the Act as an introducing  
22 broker and the person's trading advice is solely  
23 in connection with its business as an introducing  
24 broker." Did I read that exception correctly?

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1 A Yes.  
2 Q Is that the exception you were referring  
3 to earlier?  
4 A Yes.  
5 Q Do you agree that some entities  
6 are required to register in dual capacities?  
7 A In some instances, yes.  
8 Q What does it mean for a commodity  
9 trading advisor's advice to be solely in connection  
10 with its business as an introducing broker?  
11 A That they are not conducting business  
12 outside the introducing broker. For instance,  
13 you could have an AP of an IB that's not giving  
14 advice for a client of the IB. That would be  
15 a violation -- would require that person to be  
16 registered as a CTA on that advice given.  
17 Q Have you ever looked for any legal  
18 authority that interprets this concept of what is  
19 or is not solely in connection with an IB business?  
20 A Oh, yes, I have. I just don't remember  
21 when and where.  
22 MR. PLATT: I'm going to show you  
23 what I'm going to mark as CFTC Exhibit 364.  
24

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1 (Whereupon CFTC Exhibit No. 364  
2 was marked for identification.)  
3 Q The title of this document is  
4 Commodity Futures Law Reporter, CFTC Interpretive  
5 Letter No. 95-82. (Re: Clarification of Issues  
6 Concerning Guided Accounts of Introducing Brokers  
7 and Futures Commission Merchants. Did I read that  
8 title correctly?  
9 A I believe so. I wasn't tracking.  
10 Q You stated earlier that you've  
11 reviewed CFTC interpretive letters over the course  
12 of your career as a commodities lawyer, correct?  
13 A Yes.  
14 Q Do you know if you ever looked at this  
15 interpretative letter?  
16 A I assume I have, but I don't recall it  
17 off the top of my head.  
18 Q Do you think you looked at this  
19 interpretative letter before you provided advice  
20 to Mr. Donelson that Long Leaf Trading was not  
21 required to register as a commodity trading advisor?  
22 A Probably.  
23 Q Do you think you would have factored  
24 in the content of this letter into the legal advice

<p style="text-align: right;">Page 105</p> <p>1 that you provided to Mr. Donelson concerning</p> <p>2 whether or not Long Leaf Trading was required to</p> <p>3 register as a commodity trading advisor?</p> <p>4 A I don't recall looking at it</p> <p>5 specifically but if I had, I would have factored</p> <p>6 it in.</p> <p>7 Q So this is a seven-page PDF, Ms. Wing,</p> <p>8 and you can see there are some headnotes assembled</p> <p>9 by the research service that publishes these</p> <p>10 letters. The second headnote, which is highlighted</p> <p>11 in green here reads, "An FCM or an IB engaged solely</p> <p>12 in the business of 'guiding' customer accounts</p> <p>13 is, necessarily, engaging in a commodity interest</p> <p>14 advisory activity which is neither 'solely</p> <p>15 incidental' to nor 'solely in connection with'</p> <p>16 his business as an FCM or an IB, respectively,</p> <p>17 and thus is required to register as a CTA."</p> <p>18 Did I read that headnote correctly?</p> <p>19 A Yes.</p> <p>20 Q Scrolling down to the body here,</p> <p>21 do you see that this letter is organized sort of</p> <p>22 in like a question-and-answer format?</p> <p>23 A Yes.</p> <p>24 Q Questions 1 and 2 -- or Question 1</p>	<p style="text-align: right;">Page 107</p> <p>1 customer has not provided the FCM or IB with</p> <p>2 a signed power of attorney and [orally authorizes]</p> <p>3 the FCM or IB to initiate the trades.' Therefore,</p> <p>4 the 'guiding' of customer accounts, as that term</p> <p>5 is defined by you, constitutes providing commodity</p> <p>6 interest trading advice and, thus, is an activity</p> <p>7 which causes one to fall within the Act's definition</p> <p>8 of the term CTA.'"</p> <p>9 And my question is is there</p> <p>10 anything about Long Leaf's business model that</p> <p>11 is materially different from the scenario described</p> <p>12 in this letter?</p> <p>13 A They had customers that they</p> <p>14 (inaudible) their own trades according to the</p> <p>15 representation. So it wasn't solely. They had a</p> <p>16 customer -- they had foreign customers that probably</p> <p>17 go on recommendations. So that does not fall</p> <p>18 into --</p> <p>19 Q Do you think this -- do you think</p> <p>20 this letter is relevant to the analysis of whether</p> <p>21 or not Long Leaf was required to register as a</p> <p>22 commodity trading advisor?</p> <p>23 A As is all comment letters.</p> <p>24 Q In light of the information in this</p>
<p style="text-align: right;">Page 106</p> <p>1 reads -- and I've got it highlighted again</p> <p>2 here -- it says, "You," referring to the market</p> <p>3 participant that submitted this question, "ask</p> <p>4 whether an FCM or an IB, engaged solely (your</p> <p>5 emphasis) in the business of 'guiding' commodity</p> <p>6 customer accounts, is required to register as</p> <p>7 a CTA." And then the answer, which is also</p> <p>8 highlighted states, "Section 1a(5) of the Commodity</p> <p>9 Exchange Act generally defines the term commodity</p> <p>10 trading advisor as any person who for compensation</p> <p>11 or profit, engages in the business of advising</p> <p>12 others, either directly or indirectly, as to the</p> <p>13 value or the advisability of trading in commodity</p> <p>14 interests. In your letter you state that for</p> <p>15 purposes of the scenarios that you have presented,</p> <p>16 a 'guided' account 'will be considered a customer</p> <p>17 account that is being informed by the FCM or IB</p> <p>18 of the particular commodity or futures contract to</p> <p>19 purchase or sell, the price at which the customer</p> <p>20 should make the purchase or sale and the number</p> <p>21 of contracts to buy or sell.' You further state</p> <p>22 that the difference between a 'guided' account and</p> <p>23 a 'discretionary' account in these scenarios is</p> <p>24 that, in the case of a 'guided account,' 'the</p>	<p style="text-align: right;">Page 108</p> <p>1 letter, do you think in retrospect that Long Leaf</p> <p>2 should have registered as a commodity trading</p> <p>3 advisor?</p> <p>4 A No. It wasn't -- as I understand it,</p> <p>5 it was not their sole business. They had other</p> <p>6 customers that did not trade their recommendations.</p> <p>7 Q What's your understanding of the</p> <p>8 proportion of customers who followed Long Leaf's</p> <p>9 trading recommendations versus the customers who</p> <p>10 were solely self-directed?</p> <p>11 A I don't know but it wasn't 100 percent,</p> <p>12 and sole means 100 percent.</p> <p>13 Q And that's the dispositive factor for</p> <p>14 you as an attorney with 35 years' experience in</p> <p>15 this field?</p> <p>16 A Yes, how many letters are fact</p> <p>17 specific to the person requesting it. It gives</p> <p>18 guidance, but there's other fact patterns that</p> <p>19 I may not be privy to.</p> <p>20 Q And in your view the guidance</p> <p>21 provided by this letter would not bring Long Leaf</p> <p>22 into the category of entity that would be required</p> <p>23 to have registered under as a commodity trading</p> <p>24 advisor. Am I hearing you correctly?</p>

<p style="text-align: right;">Page 109</p> <p>1 A I still believe that because they 2 had clients that did not follow -- they did 3 not provide advice to that traded on their own. 4 <b>Q But you don't know what proportion 5 of Long Leaf's clientele followed Long Leaf's 6 recommendations on the one hand as opposed to 7 the proportion of the clientele that were purely 8 self-directed on the other hand, right?</b> 9 A Not a portion -- not proportion. 10 I do know that there was some large commissions 11 paid -- generated from some that did not. I was 12 informed of large commissions from traders that did 13 not follow the trading recommendations. 14 <b>Q Do you know how much revenue was 15 generated from the trading recommendations versus 16 revenue generated from self-directed trading?</b> 17 A No, I do not. 18 <b>Q So you don't know how much revenue 19 was generated by the self-directed trading and 20 you don't know how many self-directed traders there 21 were, right?</b> 22 A I knew there were some. I remember 23 specifically a foreign customer that generated 24 a sizable commission. How that relates to the</p>	<p style="text-align: right;">Page 111</p> <p>1 <b>discretion, what's the next step in the analysis 2 for you?</b> 3 A The next is looking at the individual 4 recommendations, whether or not the customers 5 followed those recommendations, whether or not all 6 customers followed those recommendations, whether 7 there's variance and deviance. All those exist. 8 <b>Q What information was provided to 9 you by Mr. Donelson at the time he asked you 10 to revisit your analysis as to whether or not Long 11 Leaf was required to register as a CTA concerning 12 how many of the customers followed Long Leaf's 13 recommendations?</b> 14 A You asked what documents or what -- 15 I mean, I -- 16 <b>Q What information.</b> 17 A Information. I queried Mr. Donelson, 18 who responded to a series of questions. 19 <b>Q What questions did you ask him?</b> 20 A I asked him how -- were there customers 21 that did not follow the trading, that you did not 22 give recommendations to, and he said yes. Were -- 23 did all customers follow all trade recommendations. 24 First I also verified whether or not they contacted</p>
<p style="text-align: right;">Page 110</p> <p>1 remaining customers I'm unaware. 2 <b>Q If there was only one customer out 3 of Long Leaf's many customers who didn't follow 4 Long Leaf's recommendations, would that bring them 5 outside the category of entity that was required to 6 register as a CTA in your view?</b> 7 A I'm not going to speculate to that. 8 I'm not going to go on speculation because there 9 may be other scenarios. But based upon the reading 10 of sole, sole means sole, as in only. 11 <b>Q So, Ms. Wing, earlier you testified 12 that the dispositive factor in your mind was the 13 lack of discretion from Long Leaf?</b> 14 A Yes. 15 <b>Q So in light of this comment letter that 16 we've just reviewed, do you think maybe that's not 17 a dispositive factor?</b> 18 A No, I still think it's one of the 19 dispositive factors. If they did -- if they 20 did not -- if they exercised discretion, boom, 21 automatic. You have to be a CTA, okay? If you 22 don't exercise discretion, then you've got to go 23 further in your analysis. 24 <b>Q So if Long Leaf didn't exercise</b></p>	<p style="text-align: right;">Page 112</p> <p>1 each customer before entering the trade or did 2 they have discretion. And then I asked about 3 whether or not all customers who were following 4 their recommendations, did they trade the same. 5 And they said, no, many of the customers entered 6 at different prices because they delayed getting 7 in or they passed on the trades, that some of them 8 exited trades before they recommended it and one in 9 particular liked trading more than they recommended. 10 So that was the gist of my questioning. 11 <b>Q And did Mr. Donelson tell you 12 that the majority of the customers followed 13 the recommendations as recommended the majority 14 of the time?</b> 15 A No, and I don't believe those were the 16 words he used, no. He had customers -- he didn't 17 quantify it with those quantifiers. He said he had 18 customers that followed and customers that didn't. 19 <b>Q He didn't attempt to provide 20 any information about the frequency with which 21 customers deviated from the trading recommendations, 22 is that right?</b> 23 A He said that there were customers that 24 deviated almost every time.</p>

<p style="text-align: right;">Page 113</p> <p>1 Q Right.</p> <p>2 A But beyond that, no.</p> <p>3 Q Did he tell you how many customers deviated</p> <p>4 almost every time?</p> <p>5 A No.</p> <p>6 Q Let's turn back to CFTC Exhibit 352,</p> <p>7 which is the complaint in this matter.</p> <p>8 A Okay.</p> <p>9 Q I'm going to scroll down here.</p> <p>10 THE WITNESS: Who is Caller -- Call-In</p> <p>11 User 5?</p> <p>12 MR. PLATT: Can everyone who's present</p> <p>13 in this deposition turn your cameras on and</p> <p>14 identify yourselves, please, at the request</p> <p>15 of the witness?</p> <p>16 MR. FALVEY: Jim Falvey here.</p> <p>17 MR. PLATT: Let's just let the record</p> <p>18 reflect that there's a potentially unidentified</p> <p>19 party participating. I would recommend let's</p> <p>20 proceed. Ms. Wing, are you comfortable</p> <p>21 proceeding?</p> <p>22 THE WITNESS: Not if I don't know who's</p> <p>23 on.</p> <p>24 MR. PLATT: Okay. You know, if you want</p>	<p style="text-align: right;">Page 115</p> <p>1 who are willing to turn on their cameras and</p> <p>2 identify themselves for the record are going</p> <p>3 to be permitted to participate in depositions</p> <p>4 in connection with this litigation that are</p> <p>5 noticed by the CFTC. So just take notice of</p> <p>6 that going forward.</p> <p>7 Q I think there was not a pending question</p> <p>8 before we were sidetracked, Ms. Wing, and I want to</p> <p>9 circle back to CFTC Exhibit 352, which is the CFTC's</p> <p>10 complaint. And --</p> <p>11 A Are you sharing? I don't see it. Oh,</p> <p>12 thank you.</p> <p>13 Q And Count V you'll see is Long Leaf's</p> <p>14 failure to provide disclosures pursuant to Part 4</p> <p>15 of the CFTC's regulations. Are you familiar with</p> <p>16 the Part 4 disclosure requirements for commodity</p> <p>17 trading advisors, Ms. Wing?</p> <p>18 A Oh, it's been a while, but yes.</p> <p>19 Q And what is your understanding of</p> <p>20 what the Part 4 disclosure requirements require of</p> <p>21 commodity trading advisors?</p> <p>22 A To present a disclosure document.</p> <p>23 Q And what information -- oh, I'm sorry.</p> <p>24 I cut you off.</p>
<p style="text-align: right;">Page 114</p> <p>1 to take a break, we can -- you know, we'll</p> <p>2 have to reconvene at another time.</p> <p>3 THE WITNESS: No, I think as hosts</p> <p>4 you're able to disconnect the person. If they</p> <p>5 don't identify themselves, disconnect them.</p> <p>6 MR. PLATT: You know, that may be --</p> <p>7 let's go off the record for a second.</p> <p>8 (Discussion off the record.)</p> <p>9 (Whereupon a recess was taken from</p> <p>10 1:37 p.m., to 2:04 p.m., after which</p> <p>11 the following proceedings were had:)</p> <p>12 MR. PLATT: So we're back on the</p> <p>13 record at 2:05 Central Time. We just had an</p> <p>14 interruption because there was an unidentified</p> <p>15 caller potentially participating in the Webex.</p> <p>16 We switched Webex sessions, and now all the</p> <p>17 participants appear to be identified as either</p> <p>18 parties or lawyers involved in the case.</p> <p>19 Q Ms. Wing, are you comfortable proceeding</p> <p>20 on this basis?</p> <p>21 A Yes.</p> <p>22 Q Thank you.</p> <p>23 MR. PLATT: And for the record, on</p> <p>24 a going-forward basis only participants</p>	<p style="text-align: right;">Page 116</p> <p>1 A No. I was just saying to clients.</p> <p>2 Q What information is required to be included</p> <p>3 in the disclosure document?</p> <p>4 A Their -- the history of -- their</p> <p>5 trading history performance, background information</p> <p>6 on who they are and a description of their trading</p> <p>7 methodology. It's been a while so I'm sure there's</p> <p>8 a few other requirements in there.</p> <p>9 Q Did Mr. Donelson ever ask you whether</p> <p>10 or not Long Leaf should provide a Part 4 disclosure</p> <p>11 document to prospective customers?</p> <p>12 A We talked about if a -- about a CTA must</p> <p>13 provide a disclosure document.</p> <p>14 Q And how did that conversation proceed?</p> <p>15 A When we were talking about whether</p> <p>16 or not their activity was a CTA versus activity as</p> <p>17 an introducing broker, and I believe Mr. Donelson's</p> <p>18 thought was in the future he would like to become</p> <p>19 a CTA and develop a trading program.</p> <p>20 Q And so did you advise Mr. Donelson</p> <p>21 that he did not need to provide a Part 4 disclosure</p> <p>22 document?</p> <p>23 A I told him -- I don't know if I said</p> <p>24 it in that many words. But since he was not acting</p>

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1 as a CTA or our interpretation, he did not need  
2 to provide disclosure documents.  
3 **Q So Count VI of the CFTC's complaint,**  
4 **which I'm sharing with you here as Exhibit 352,**  
5 **again deals with various failures to register as**  
6 **associated persons. Do you see that?**  
7 A Yes.  
8 **Q And one of these individuals here**  
9 **that's listed, you can see in parentheses at the**  
10 **bottom is against Long Leaf, Donelson, Evans and**  
11 **Nelson. Do you know who Andrew Nelson is?**  
12 A I do.  
13 **Q Who is Andrew Nelson?**  
14 A He was a client of mine.  
15 **Q Was he also a broker at Long Leaf?**  
16 A Yes.  
17 **Q When was he a client of yours?**  
18 A During the time he was a broker at Long  
19 Leaf.  
20 **Q Can you put a more concrete time**  
21 **frame on it? Was it his entire tenure as a Long**  
22 **Leaf broker?**  
23 A Oh, no. After Mr. Donelson purchased Long  
24 Leaf, there came a time period where Mr. Nelson's AP

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1 registration came into question, or lack thereof.  
2 **Q Do you recall when that was?**  
3 A No, I do not recall when it was. And  
4 Mr. Nelson has not waived attorney-client privilege,  
5 so I cannot discuss those areas.  
6 **Q Is it your position that the fact**  
7 **of representation is privileged information?**  
8 A No, but I was anticipating where you  
9 were going with it.  
10 **Q So I'm just asking when you started to**  
11 **represent Mr. Nelson.**  
12 A After Mr. Donelson purchased and  
13 before his termination as an AP, that time period.  
14 I don't know specifically when. It would have been  
15 in 2018.  
16 **MR. PLATT:** I'm going to show you what  
17 I'm marking as CFTC Exhibit 365.  
18 (Whereupon CFTC Exhibit No. 365  
19 was marked for identification.)  
20 **Q And this is a document that**  
21 **you produced to us, Ms. Wing. It looks like**  
22 **Mrs. Donelson is forwarding you an email chain**  
23 **between her and Mr. Nelson. Do you recognize this**  
24 **document?**

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1 A Yes. Can you scroll down?  
2 **Q Sure. You can see it's correspondence**  
3 **between Mr. Nelson and the NFA in March of 2018,**  
4 **and then Mr. Nelson forwards this correspondence**  
5 **with the NFA to Mrs. Donelson on July 12, 2018.**  
6 **Do you see that?**  
7 A Yes.  
8 **Q And then Mrs. Donelson forwards**  
9 **it to you that same day that she received it from**  
10 **Mr. Nelson. Do you agree with that?**  
11 A Probably.  
12 **Q Do you think this is the first time that**  
13 **you heard about Mr. Nelson?**  
14 A No. He was listed as a broker from  
15 Tim Evans.  
16 **Q Do you think this is when you --**  
17 **approximately when your representation of Mr. Nelson**  
18 **began?**  
19 A Probably.  
20 **Q Why do you say probably?**  
21 A It was a dual representation as it  
22 related to Long Leaf and Mr. Nelson as to the  
23 registration issue. It may have been a little --  
24 a few weeks subsequent or a few weeks before,

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1 probably before or a week before.  
2 **Q Is it fair to say that your joint**  
3 **representation of Mr. Nelson and Long Leaf probably**  
4 **began around the July 2018 time period?**  
5 A That's fair.  
6 **Q Okay. And so Mr. Donelson never**  
7 **reached out to you in January of 2018 to highlight**  
8 **this potential issue?**  
9 A I don't recall. I don't recall that he  
10 was aware of that potential issue.  
11 **Q Do you think your --**  
12 A I do believe when we ran BrokerCheck  
13 on all brokers, Mr. Nelson at the NFA showed he was  
14 registered.  
15 **Q So you don't recall receiving an email**  
16 **from Mr. Donelson in January of 2018 that would**  
17 **have reflected the NFA initiating a registration**  
18 **disqualification proceeding against Mr. Nelson?**  
19 A I'm confused on the timeline. I think  
20 I would have received something from Mr. Donelson  
21 concerning Mr. Nelson's registration. When that was  
22 I don't recall right now.  
23 **Q We looked at the document subpoena that**  
24 **we sent to you in connection with this litigation**



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1 earlier today. Did you search your emails for  
2 responsive information, Ms. Wing?  
3 A Yes.  
4 Q So if Mr. Donelson had sent you an email  
5 about Mr. Nelson in January of 2018 highlighting  
6 a registration disqualification proceeding, would  
7 that be in your emails?  
8 A Should have been.  
9 Q But you didn't produce anything like that.  
10 So I'm assuming that if you got notice in January  
11 of 2018, it didn't come by email?  
12 A Yes, it could have been a phone call.  
13 It could have been an in-person meeting.  
14 Q But you don't remember that occurring  
15 and you don't maintain notes. So there would be  
16 no notes reflecting such a conversation took place,  
17 correct?  
18 A I remember having a conversation about  
19 Mr. Nelson's lack of -- problem of registration  
20 at the NFA. When that occurred I don't recall.  
21 How I was informed on it I don't recall, but I was  
22 informed.  
23 Q And you testified earlier that the  
24 earliest you probably heard about this issue was

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1 around the July 2018 time period, is that right?  
2 A Well, then I might have misstated  
3 because I don't -- I said it was a fair assumption  
4 that it was around that time. It could have been  
5 earlier, but you were asking when my representation  
6 of Mr. Nelson began. There are two different --  
7 those are two different questions, sir. When I  
8 became aware of it and when my representation of  
9 Mr. Nelson began are two different questions.  
10 Q When did you become aware that the  
11 NFA was initiating registration disqualification  
12 proceedings against Mr. Nelson?  
13 A Shortly after Mr. Donelson was informed.  
14 Q When was that?  
15 A That I don't recall when.  
16 Q How do you know it was shortly after  
17 Mr. Donelson was informed?  
18 A Because he said he just found out.  
19 Q But you don't remember when that was  
20 and you don't remember how he told you, right?  
21 A I'm sure it was in person or by phone.  
22 Q But you don't remember when it took place?  
23 A No.  
24 Q And do you think -- do you know

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1 whether it was close in time to when you began  
2 your representation of Mr. Nelson?  
3 A I don't -- it could have been January.  
4 It could have been closer to July. There was a lot  
5 going on in those six months.  
6 Q But the truth is that you have no  
7 idea sitting here today when it happened, right?  
8 A I don't recall when it happened. I was  
9 dealing with my father-in-law dying at that time  
10 period.  
11 Q Let's turn back to CFTC Exhibit  
12 355, which is the registration conversations PDF.  
13 Ms. Wing, you mentioned just before we turned back  
14 to the registration conversations PDF, you mentioned  
15 that you looked at BrokerCheck to see if  
16 Mr. Nelson's registrations were current. Did you  
17 mean BASIC?  
18 A BASIC. Sorry, I misspoke.  
19 Q Yeah, no problem. Just clarifying.  
20 So, Ms. Wing, here on CFTC Exhibit 355 we looked  
21 at these four conversation summaries earlier, one  
22 of which dealt with Long Leaf's registration as  
23 a commodity trading advisor or lack thereof. The  
24 other three I think at least potentially relate to

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1 Mr. Donelson's registration status as an associated  
2 person.  
3 A Yes.  
4 Q Conversations 2 and 3, it looks like  
5 they took place sometime before March 2018. Do you  
6 agree with that?  
7 A That's what it appears.  
8 Q And then Conversation 4 took place in  
9 early June of 2018, right?  
10 A Yes, that's what it appears.  
11 Q Are these -- do you recall these  
12 conversations with Mr. Donelson?  
13 A Somewhat.  
14 Q What do you remember about Conversations 2,  
15 3 and 4?  
16 A Well, 2, we were discussing that  
17 he -- at the time of purchase he did not have  
18 a Series 3, but Mr. Evans was staying on to be  
19 the principal supervisor and that he would shadow  
20 Mr. Evans and take his Series 3. But, yeah, I  
21 informed him he must be disclosed as the principal  
22 because he is an owner.  
23 Q What is a Series 3?  
24 A A license, commodity license.



<p style="text-align: right;">Page 125</p> <p>1 <b>Q What kind of license?</b></p> <p>2 A An associated person's license.</p> <p>3 <b>Q Did you advise Mr. Donelson</b></p> <p>4 <b>in February of 2018 that he was not required to</b></p> <p>5 <b>register as an associated person at that time?</b></p> <p>6 A I recall advising him that he would</p> <p>7 have to register as an associated person should</p> <p>8 he do -- should he perform any activities as an</p> <p>9 associated person, that he has to be listed as a</p> <p>10 principal and that there needs to be a supervisory</p> <p>11 principal for the firm. And that's about the time</p> <p>12 I believe he was scheduled to take the Series 3</p> <p>13 test.</p> <p>14 <b>Q What are the activities that would</b></p> <p>15 <b>require registration as an associated person of</b></p> <p>16 <b>an introducing broker?</b></p> <p>17 A Giving trading recommendations,</p> <p>18 holding yourself out as an associated person,</p> <p>19 receiving commissions for trading activity and</p> <p>20 then -- and the profit of a firm. Generally those</p> <p>21 are the main ones. Operating as compliance does</p> <p>22 not, negotiating a dispute does not, interacting</p> <p>23 with the regulators does not require.</p> <p>24 <b>Q How did Jim Donelson describe his</b></p>	<p style="text-align: right;">Page 127</p> <p>1 <b>Q Did Mr. Donelson explain to you that</b></p> <p>2 <b>he explained the company's sales process to the</b></p> <p>3 <b>new brokers?</b></p> <p>4 A I don't know what you mean. If you</p> <p>5 mean that he would have explained to a broker that</p> <p>6 he didn't -- that he does not take discretion and</p> <p>7 they must talk to the client before placing the</p> <p>8 order, yes, that was the company's position.</p> <p>9 <b>Q Were there any other sales processes at</b></p> <p>10 <b>Long Leaf besides giving trading recommendations?</b></p> <p>11 A I'm sure there's a whole host of</p> <p>12 procedures and policies that they should follow,</p> <p>13 some of them dictated by the trading. Am I aware of</p> <p>14 them, no. I wouldn't get involved in the day-to-day</p> <p>15 operations.</p> <p>16 <b>Q Before you had a conversation with</b></p> <p>17 <b>Mr. Donelson in February 2018 about whether or</b></p> <p>18 <b>not he was required to register as an associated</b></p> <p>19 <b>person, did he tell you that he met with the Long</b></p> <p>20 <b>Leaf broker staff to engage them on sales targets,</b></p> <p>21 <b>data quality improvements and trading?</b></p> <p>22 A I don't recall, but I would assume</p> <p>23 any owner would sit with their sales staff and</p> <p>24 say here's -- you know, we must follow the rules</p>
<p style="text-align: right;">Page 126</p> <p>1 <b>role at Long Leaf Trading to you in or around</b></p> <p>2 <b>February 2018?</b></p> <p>3 A As owner, that he was looking</p> <p>4 at where he can cut costs and looking at the</p> <p>5 brokers' trading and recommendations that they're</p> <p>6 making, compliance, listening to broker calls.</p> <p>7 <b>Q Any other activities?</b></p> <p>8 A Interacting with the clearing firm.</p> <p>9 <b>Q Did Mr. Donelson describe any</b></p> <p>10 <b>activities that related to the supervision of the</b></p> <p>11 <b>Long Leaf broker staff in February 2018?</b></p> <p>12 A Nothing other than an owner. He had</p> <p>13 principals involved to supervise. I believe Brian</p> <p>14 Adams was one, Scott Gecas. These were brokers with</p> <p>15 considerable years of being brokers that were in</p> <p>16 a supervisory role.</p> <p>17 <b>Q Before your discussion with Mr. Donelson</b></p> <p>18 <b>in February 2018 concerning his registration status</b></p> <p>19 <b>as an associated person, did Mr. Donelson tell you</b></p> <p>20 <b>that he met with newly hired brokers to discuss</b></p> <p>21 <b>expectations and goals and explain the company's</b></p> <p>22 <b>sales process to them?</b></p> <p>23 A As an owner he would have met with newly</p> <p>24 hired brokers, yeah.</p>	<p style="text-align: right;">Page 128</p> <p>1 and regulations of the CFTC, here's the compliance</p> <p>2 manual, here is our clearing firm's requirements</p> <p>3 and this is what I expect of you. That would not be</p> <p>4 out of the norm to expect that kind of conversation.</p> <p>5 <b>Q What about sales targets and sales</b></p> <p>6 <b>processes, did you know that Mr. Donelson -- did</b></p> <p>7 <b>Mr. Donelson ever tell you before February 2018 that</b></p> <p>8 <b>he met with brokers to discuss sales targets and</b></p> <p>9 <b>sales processes? I'm not talking about compliance</b></p> <p>10 <b>processes or regulatory processes. I'm talking</b></p> <p>11 <b>about sales targets and sales processes.</b></p> <p>12 A Probably not. I wouldn't have -- I was</p> <p>13 concerned only with compliance.</p> <p>14 <b>Q Before February 2018 when you and</b></p> <p>15 <b>Mr. Donelson discussed his registration status</b></p> <p>16 <b>as an associated person, did he explain to you</b></p> <p>17 <b>that he sent correspondence to brokers that he had</b></p> <p>18 <b>drafted and directed them to send the correspondence</b></p> <p>19 <b>to clients?</b></p> <p>20 A I don't know what correspondence you're</p> <p>21 referring to but there was some correspondence that</p> <p>22 he drafted, as is standard when there's a change of</p> <p>23 ownership in the firm.</p> <p>24 <b>Q So you were aware that Donelson drafted</b></p>

<p style="text-align: right;">Page 129</p> <p>1 correspondence, sent it to the brokers and told the</p> <p>2 brokers to send it to the clients before February</p> <p>3 2018?</p> <p>4 A I don't know which correspondence</p> <p>5 you're referring to, but I know there was a change</p> <p>6 of ownership form.</p> <p>7 Q Let's just say any correspondence.</p> <p>8 A Yeah, yeah.</p> <p>9 Q Did Mr. Donelson ever tell you</p> <p>10 before June of 2018 that he conducted individual</p> <p>11 performance reviews with the brokers?</p> <p>12 A I don't know if he told me before,</p> <p>13 but at some point in time I became aware of that.</p> <p>14 Q But you don't know when that happened?</p> <p>15 A No.</p> <p>16 Q Did Donelson tell you before June</p> <p>17 of 2018 that he was in charge of making sure that</p> <p>18 non-scripted customer solicitations met NFA rules?</p> <p>19 A Would you repeat your question? I want</p> <p>20 to make sure I'm accurate in my answer, of course.</p> <p>21 Q Sure. Before June of 2018, which</p> <p>22 is when Conversation 4 on Exhibit 355 occurred</p> <p>23 according to Mr. Donelson, did Mr. Donelson tell</p> <p>24 you that he was in charge of making sure that non-</p>	<p style="text-align: right;">Page 131</p> <p>1 only wanted to be compliant with everything.</p> <p>2 Q Did you do any legal research before you</p> <p>3 advised Mr. Donelson on what he could and couldn't</p> <p>4 do without a Series 3 license?</p> <p>5 A I don't remember doing any specific</p> <p>6 legal research. It was my experience and number</p> <p>7 of years in the industry.</p> <p>8 Q Did you look on the NFA website to</p> <p>9 see if they had any guidance about what a person</p> <p>10 can and can't do without a Series 3 license?</p> <p>11 A He was studying for the Series 3</p> <p>12 at the time, so I think he was aware of what he</p> <p>13 was doing, what a Series 3 could or could not do.</p> <p>14 But as an attorney, you do not have to be a Series 3</p> <p>15 license. As a compliance officer you do not have</p> <p>16 to have a Series 3 license at the time. As a</p> <p>17 trade desk person you do not need a Series 3. As</p> <p>18 administrative support you don't need a Series 3.</p> <p>19 All that was experience.</p> <p>20 Q But I think the question is did you</p> <p>21 look at the NFA website to determine what a person</p> <p>22 can do without an associated person registration?</p> <p>23 A Did I at the time, I don't recall.</p> <p>24 Q What is your understanding of the rule</p>
<p style="text-align: right;">Page 130</p> <p>1 scripted customer solicitations met NFA rules?</p> <p>2 A I do believe Mr. Donelson told me</p> <p>3 he was talking to the NFA on a script. I said</p> <p>4 any script you use must be approved by the NFA, and</p> <p>5 he was interacting with NFA's marketing department</p> <p>6 or his point of contact to get -- to get review and</p> <p>7 approval of that, and I believe that was before</p> <p>8 June. I don't know for sure.</p> <p>9 Q Sure, that's helpful. And you're</p> <p>10 discussing scripted communications I think. I'm</p> <p>11 asking you about non-scripted communications. Did</p> <p>12 Mr. Donelson ever tell you that he was in charge at</p> <p>13 Long Leaf of reviewing non-scripted communications?</p> <p>14 A Was he involved in reviewing broker</p> <p>15 conversations with customers for compliance, yes.</p> <p>16 Q So your understanding is that he would</p> <p>17 review recorded telephone calls?</p> <p>18 A I don't know if they record -- I can't</p> <p>19 recall if they recorded their telephone calls or</p> <p>20 not, but he would listen to telephone calls. It was</p> <p>21 a small room.</p> <p>22 Q Do you know whether or not he reviewed</p> <p>23 emails?</p> <p>24 A I would assume he did. Mr. Donelson</p>	<p style="text-align: right;">Page 132</p> <p>1 about whether or not a supervisor of associated</p> <p>2 persons is required to register as an associated</p> <p>3 person?</p> <p>4 A If they're involved in the</p> <p>5 direct supervision of an associated person, there</p> <p>6 must be a -- there must be a designated principal,</p> <p>7 registered principal, as there was at Long Leaf.</p> <p>8 That was not Mr. Donelson.</p> <p>9 Q So I think I'm asking a slightly</p> <p>10 different question, Ms. Wing. I'm asking what is</p> <p>11 your understanding of whether or not a supervisor</p> <p>12 of an associated person is required to also register</p> <p>13 as an associated person.</p> <p>14 A It depends on what they're supervising</p> <p>15 for. HR can supervise an associated person for</p> <p>16 an HR situation and doesn't need to be registered as</p> <p>17 a supervisor. A compliance officer can supervise</p> <p>18 for compliance and doesn't need to be registered</p> <p>19 as a supervisor. There are different -- your</p> <p>20 question's too broad. If you want to ask about</p> <p>21 a specific activity, I'll answer that.</p> <p>22 Q Sure. What is your understanding</p> <p>23 of the obligations of a person who supervises</p> <p>24 associated persons with respect to sales processes</p>

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1 **vis-a-vis registering as an associated person?**  
2 A And I'm unclear what you mean as sales  
3 processes. I really don't know what you mean by  
4 sales processes.  
5 **Q What product did Long Leaf Trading sell?**  
6 A Futures, options.  
7 **Q How did they package their product?**  
8 A Broker assisted.  
9 **Q It's a trading program, right, Ms. Wing?**  
10 **It's what we're here about. It's their trading**  
11 **program.**  
12 A No, that's what you're here about.  
13 They're an IB, okay? I'm not going to -- they  
14 had other situations, other products other than  
15 a trading program. They had customers who traded  
16 other products other than your trading program.  
17 **Q Among the customers who opened**  
18 **accounts when Mr. Donelson owned the firm, how**  
19 **many of those customers participated in Long Leaf's**  
20 **trading program?**  
21 A I do not know how many customers, we went  
22 over that earlier, but not all.  
23 **Q Your understanding is that there were**  
24 **customers who opened accounts when Donelson owned**

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1 **the firm that did not participate in the trading**  
2 **program?**  
3 A Yeah.  
4 **Q What's that understanding based on?**  
5 A Comments that were told to me by  
6 Mr. Donelson.  
7 **Q But you do acknowledge that there was**  
8 **a trading program at Long Leaf, right?**  
9 A No, I acknowledge that there were  
10 broker recommendations. You're using the word  
11 trading program. I do not know if I agree or  
12 disagree with that terminology.  
13 **Q So the recommendations, do you**  
14 **have an understanding of how frequently they**  
15 **were communicated to customers?**  
16 A They weren't trading quite a bit  
17 throughout a month. They weren't everyday  
18 recommendations. So they were infrequent, as  
19 I would call it.  
20 **Q Is it consistent with your recollection**  
21 **that Long Leaf made approximately four trading**  
22 **recommendations per month to its customers?**  
23 A That would be of those customers they  
24 made trading recommendations, that sounds about

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1 right. They weren't prolific trade recommendations.  
2 **Q So it's your testimony as Long Leaf's**  
3 **regulatory attorney that Long Leaf was not selling**  
4 **a trading program? Is that what you're telling us?**  
5 A I'm saying they're doing broker assist  
6 and that they would develop recommendations. I do  
7 not know if you consider it a trading program.  
8 **Q How did Long Leaf Trading get customers?**  
9 A I would have no idea.  
10 **Q What do you think the brokers did all day**  
11 **at Long Leaf Trading?**  
12 A They probably did cold calling.  
13 **Q Why do you think that?**  
14 A Because that's typically how brokerage  
15 firms get customers.  
16 **Q And so your testimony is you have**  
17 **no idea how Long Leaf Trading obtained customers?**  
18 A I wasn't retained to look at how they  
19 got customers. That's not my area.  
20 **Q So now you don't know how Long Leaf**  
21 **obtained customers?**  
22 A I said I assumed they did it by cold  
23 calling because that's how most brokerage firms  
24 got it -- customers.

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1 **Q Are you aware that Long Leaf brokers**  
2 **called prospects and tried to sell the trading**  
3 **program to them?**  
4 A I'm aware they called customers and  
5 that they tried to sell their services. Yes, I'm  
6 aware of that.  
7 **Q Okay, great. So let's put a box**  
8 **around that activity, that concept of cold calling**  
9 **customers or calling customers and trying to sell**  
10 **services, okay? And we'll call that Long Leaf's**  
11 **sales process, okay?**  
12 A Yes, fine.  
13 **Q If a person was supervising Long Leaf's**  
14 **sales process, would they be required to register**  
15 **as an associated person?**  
16 A Not completely. Were they supervising  
17 it by compliance status? Were they supervising  
18 it to make sure if a customer signs up, that they  
19 received appropriate account opening documents?  
20 That part would not need to be registered as a  
21 supervisor.  
22 **Q What about the part where the**  
23 **broker explains the trading recommendations,**  
24 **would the supervisor of a broker describing the**

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1 trading recommendations be required to register  
 2 as an associated person?  
 3 A I don't -- I don't know. Are they  
 4 explaining -- are they explaining what an option  
 5 is, here's an option, here's the definition that  
 6 I'd like -- that people recognize from the CME?  
 7 Then no.  
 8 Q What if the associated person was  
 9 explaining Long Leaf's trading recommendations,  
 10 would the supervisor of Long Leaf's brokers who  
 11 explained Long Leaf's trading recommendations need  
 12 to register as an associated person?  
 13 A It depends on the extent of the definition  
 14 of what they're providing.  
 15 Q I don't understand your answer.  
 16 A That's my answer. You can ask me another  
 17 question.  
 18 Q Do you know what Long Leaf's trading  
 19 recommendations looked like?  
 20 A Not offhand.  
 21 Q Have you ever seen one?  
 22 A Yes.  
 23 Q So you do know what one looks like?  
 24 A I don't recall, if that's the appropriate

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1 answer, what it looks like.  
 2 Q Okay. What about if a person was  
 3 supervising a Long Leaf broker's solicitation  
 4 of orders from customers, would that person have  
 5 to register as an associated person?  
 6 A How is the solicitation being --  
 7 I mean, it is a fine line. So, I'm sorry, how --  
 8 what super -- I mean solicitation are you referring  
 9 to? Are you referring to that all calls must be on  
 10 a recorded line and somebody making sure that that's  
 11 the case? In a sense would I call that supervising  
 12 a broker, yes. Would I call it supervising a broker  
 13 that requires registration, no.  
 14 Q Do you know --  
 15 A It's enforcing company policy.  
 16 Q Do you know how Long Leaf brokers  
 17 solicited orders in connection with Long Leaf's  
 18 trading recommendations?  
 19 A No, I said I assumed it was cold call.  
 20 I don't know for sure.  
 21 Q So I'm asking a slightly different  
 22 question now. I'm not asking about the cold call  
 23 to solicit customers. I'm asking Long Leaf's got  
 24 some customers, right? And the brokers, do you

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1 understand that the brokers would call them to  
 2 ask them if they wanted to participate in the  
 3 trading recommendations?  
 4 A Yes, that I did know. That was that  
 5 they sought the clients' approval to see if they  
 6 wanted to enter in any and all trades.  
 7 Q And that happened by phone, right?  
 8 A That's my understanding.  
 9 Q It happened by email too, right?  
 10 A I'm unsure about how much would be email,  
 11 but I assume there was some.  
 12 Q What is your understanding of how  
 13 a Long Leaf broker would solicit customer orders  
 14 in connection with a trading recommendation?  
 15 A There was a trading recommendation  
 16 that was developed. That recommendation went  
 17 to the brokers to see if their customers wanted  
 18 to participate or not. So the broker would then  
 19 communicate with the customer and those who wanted  
 20 to -- and I believe they got something in writing,  
 21 if I'm not mistaken, from the customer as to whether  
 22 or not the customer wanted to participate.  
 23 Q So if a person was supervising  
 24 the process that you just described, would they

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1 be required to register as an associated person?  
 2 A I don't think so. They're following  
 3 through company policy. That's their policy of  
 4 doing that.  
 5 Q What kind of supervision do you think  
 6 requires registration as an AP?  
 7 A You asked me that before. You asked  
 8 me that before and I'm standing by my prior answer.  
 9 Q So I'm not sure if I did and if I did,  
 10 I apologize. I forget, and please indulge me.  
 11 What kind of activities -- if a person supervises,  
 12 what category of activities would that person then  
 13 be required to register as an associated person?  
 14 A Those activities that involve  
 15 directly encouraging a customer to trade a certain  
 16 way. That would require supervising.  
 17 Q Anything else?  
 18 A It's late. I can't remember anymore.  
 19 MR. FALVEY: Do you need to take a break,  
 20 Rebecca?  
 21 THE WITNESS: No, I just need to  
 22 move on because I do have other commitments.  
 23 MR. FALVEY: Okay.  
 24 MR. PLATT: We're almost done. Just

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1 a couple more. This has gone a little more  
2 slowly than I had imagined it would go.  
3 **MR. FALVEY:** No worries.  
4 **MR. PLATT:** I'm going to show you  
5 what I'm going to mark as CFTC Exhibit 366.  
6 (Whereupon CFTC Exhibit No. 366  
7 was marked for identification.)  
8 **Q** And I'll represent to you that  
9 I printed this out off the NFA website after doing  
10 a Google search for associated person registration.  
11 Do you see that the heading is Associated Person  
12 Registration and there's -- it's underneath the  
13 NFA logo?  
14 A Yeah.  
15 **Q** In the second paragraph here do you see  
16 that it says, "The registration requirements," and  
17 it's referring to the AP registration requirements,  
18 "apply to any person in the supervisory chain  
19 of command and not only to persons who directly  
20 supervise the solicitations of orders, customers  
21 or funds," and then it provides a notice to members  
22 for more information.  
23 Do you think that you knew of  
24 this rule at the time you discussed Donelson's

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1 AP registration or lack thereof in February 2018?  
2 A Yes.  
3 **Q** And it was your understanding  
4 that Donelson was not supervising the solicitation  
5 of orders, customers or funds at that time?  
6 A Based on what I was informed, yes.  
7 **Q** So I'm going to turn back to  
8 Mr. Donelson's corrected answer to the CFTC's  
9 complaint, and I don't recall what exhibit I  
10 marked this as. But do you recall when we reviewed  
11 Mr. Donelson's corrected answer earlier, Ms. Wing,  
12 that he referenced the review of scripts by his  
13 attorneys?  
14 A I believe I read something to that effect.  
15 **MR. PLATT:** So, Mr. Falvey, I'm just  
16 going to, you know, highlight that I'm going  
17 to ask about the scripts. And, Ms. Wing, please  
18 allow Mr. Falvey a moment to object if he sees  
19 fit after I ask the questions before you answer.  
20 **MR. FALVEY:** Okay, thank you.  
21 **BY MR. PLATT:**  
22 **Q** Did Mr. Donelson ever provide you  
23 with Long Leaf's sales scripts and ask you to  
24 review them?

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1 A Yes.  
2 **Q** What was the purpose of the review that  
3 he asked you to conduct?  
4 A It was in response to I believe an NFA  
5 inquiry.  
6 **Q** Do you recall when that occurred?  
7 A I have no idea.  
8 **Q** What about the NFA's inquiry  
9 led Mr. Donelson to ask you to review Long Leaf  
10 Trading's sales scripts?  
11 A It was something brought up by the NFA.  
12 **Q** I'm going to show you what's been  
13 marked previously as CFTC Exhibit 289. And do  
14 you see this is an email from Donelson to James  
15 Hatzigiannis, Alexander Stemper, Ben Cybulski and  
16 Vicki Donelson and it's dated January 7, 2019, and  
17 the subject is new demo and talking points. Do you  
18 know what new demo means in the context of Long Leaf  
19 Trading's business?  
20 A No, nor have I ever seen this email before.  
21 **Q** I'm going to scroll down to  
22 the attachments. This is the first page of a  
23 Power Point deck. The page is Options Portfolio  
24 Strategies. I'm just going to scroll through it

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1 so you can familiarize yourself with it.  
2 A Um-hmm.  
3 **Q** Do you see on page 7 of Exhibit 289  
4 it's titled Portfolio Strategies. There's a little  
5 bullet that says Income Generating. Do you see  
6 that?  
7 A Yes.  
8 **Q** Again on page 8 there's another bullet  
9 that says Income Generating. Do you see that?  
10 A Yes.  
11 **Q** On page 14 of the PDF, which is page 15  
12 of Exhibit 289, do you see where it says What We Can  
13 Offer your Portfolio, one of the bullets says Income  
14 Generating Strategies? Do you see that?  
15 A Yes.  
16 **Q** And then the second attachment is titled  
17 here, it says Long Leaf Trading Talking Points.  
18 Do you see that?  
19 A Yes.  
20 **Q** Do you recognize these attachments to  
21 Exhibit 289?  
22 A I don't recognize the first one.  
23 I don't know -- there were some talking points.  
24 I don't know if these were the ones I reviewed after



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1 the -- around the NFA.  
2 **MR. PLATT:** I'm going to show you  
3 a document that I'm going to mark as CFTC  
4 Exhibit 367.  
5 (Whereupon CFTC Exhibit No. 367  
6 was marked for identification.)  
7 A Okay.  
8 **Q Because I'd like to put a time frame**  
9 **around when you reviewed Long Leaf's scripts. Do**  
10 **you recognize CFTC Exhibit 367 as an email to Jim**  
11 **Donelson and Brian Adams from an NFA person named**  
12 **Brian Dempsey?**  
13 A Well, this is what the document says.  
14 I don't recommend -- or recognize if I ever saw  
15 this document before now.  
16 **Q Sure. And I'm only asking you if this**  
17 **appears to be an email that Mr. Donelson received**  
18 **from bdempsey@nfa.futures.org.**  
19 A If that's what it appears to be.  
20 **Q Yeah. Dated May 17, 2018, right?**  
21 A Yes.  
22 **Q Subject line NFA Inquiry, and there's**  
23 **a PDF attachment. And the body of the email says,**  
24 **"Mr. Donelson, as we discussed today, please see**

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1 the attached letter regarding NFA's review of  
2 Long Leaf Trading Group Inc.'s solicitations."  
3 Did I read that correctly?  
4 A Yeah.  
5 **Q I'm going to scroll down to**  
6 **the attachment, which is a letter addressed**  
7 **to Mr. Donelson. Have you ever seen this letter**  
8 **before in your life?**  
9 A Maybe.  
10 **Q I guess just take a minute**  
11 **to familiarize yourself with it and see if you**  
12 **recognize the content generally.**  
13 A I've read it.  
14 **Q I'm going to scroll down so you can**  
15 **review the second page of the letter. Do you see**  
16 **that, Ms. Wing?**  
17 A Yes.  
18 **Q So do you recognize Exhibit 367**  
19 **as part of the NFA inquiry in connection with**  
20 **which you reviewed Long Leaf Trading's scripts?**  
21 A I don't recall the letter, but I would  
22 assume I would have read -- reviewed it, but I don't  
23 recall it.  
24 **Q Okay. And what I'm asking is does**

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1 **this refresh your recollection about approximately**  
2 **when this review occurred?**  
3 A I would assume it was summer of 2018.  
4 **Q What materials did Mr. Donelson provide**  
5 **to you to review after this NFA inquiry surfaced?**  
6 **MR. PLATT:** Mr. Falvey, I think I'm  
7 getting pretty close to the line here as  
8 I understand it.  
9 **MR. FALVEY:** Yeah, yeah. I mean,  
10 I think this question's okay, Rebecca. But  
11 you're right, Jody, it's close -- or Mr. Platt.  
12 A Unfortunately, I don't recall too  
13 much of what he provided. There would have been  
14 a letter or a couple letters from the NFA and a  
15 draft response he would have drafted, and I don't  
16 know what else at this point. I'm sorry. It was  
17 a long time ago for me.  
18 **BY MR. PLATT:**  
19 **Q Did Mr. Donelson ask you to provide**  
20 **legal advice concerning whether or not the scripts**  
21 **and solicitation materials he provided to you were**  
22 **misleading?**  
23 A In those terms, no. I don't think I was  
24 retained to do that.

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1 **Q What was the scope of your engagement with**  
2 **respect to the review of Long Leaf's solicitation**  
3 **materials in connection with the NFA's May 2018**  
4 **inquiry?**  
5 A To prepare a response to the NFA.  
6 **MR. PLATT:** I'm going to show you  
7 what I'm going to mark as CFTC Exhibit 368,  
8 which purports to be an email from Jim Donelson  
9 to Brian Dempsey at the NFA copying Brian Adams  
10 on May 24, 2018, Subject line Long Leaf Trading  
11 Group 2018CINV352 Response.  
12 (Whereupon CFTC Exhibit No. 368  
13 was marked for identification.)  
14 **Q Is this the response that you were**  
15 **referencing that you assisted in preparing?**  
16 A Can you show me the response instead  
17 of the reference to the response?  
18 **Q Yeah, sure. I'm going to scroll**  
19 **down through the attachments to get to the letter,**  
20 **and let me know when you're ready for me to scroll**  
21 **through the rest.**  
22 A Go ahead, start scrolling. You're going  
23 too fast.  
24 **Q Sorry.**

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1 A Okay, go ahead.  
2 **Q (Scrolling).**  
3 A Go ahead.  
4 **Q (Scrolling).**  
5 A Okay.  
6 **Q Ms. Wing, is this the letter that you**  
7 **were referencing that you assisted in preparing in**  
8 **connection with the NFA inquiry?**  
9 A I don't know. It could be. But, quite  
10 frankly, I can't recall one way or another at this  
11 point or if there was a subsequent issue. I know  
12 I've seen this letter, but was it one that I helped  
13 draft? I don't know.  
14 **Q Do you see this first sentence of the**  
15 **final paragraph reads, "Long Leaf takes compliance**  
16 **very seriously and we are consistently reviewing**  
17 **our sales practices and scripts to confirm that they**  
18 **accurately represent the risk and reward a customer**  
19 **would experience trading the Time Means Money**  
20 **broker-assisted trading system."**  
21 **So, first, does this refresh**  
22 **your recollection that Long Leaf Trading offered**  
23 **a trading system?**  
24 A No, it doesn't because I don't recall

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1 the letter at this time.  
2 **Q Did you actually review Long Leaf**  
3 **Trading's sales practices and scripts to confirm**  
4 **that they accurately represented the risk and reward**  
5 **a customer would experience trading the Time Means**  
6 **Money broker-assisted trading system?**  
7 A As I stated before -- you asked this  
8 question before -- I was not retained to review  
9 the script.  
10 **Q So that's a no?**  
11 A That's a no. I was not retained to do it.  
12 **Q And, in fact, you never did it. Is that**  
13 **your testimony?**  
14 A I -- no, I reviewed the scripts.  
15 My testimony was that I reviewed the script in  
16 responding to an NFA inquiry. Was it this inquiry  
17 or a subsequent one, I don't know.  
18 **Q So I'm going to ask this question**  
19 **again because I don't think you answered it and**  
20 **this is an important question, Ms. Wing. Did you**  
21 **ever review Long Leaf Trading's sales practices and**  
22 **scripts to confirm that they accurately represented**  
23 **the risk and reward a customer would experience**  
24 **trading the Time Means Money broker-assisted**

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1 **trading system? And I don't mean were you retained**  
2 **to do it. I mean did you do it.**  
3 A Did I review it to advise them whether or  
4 not it was compliant, the answer is no. I reviewed  
5 it after this to respond to an NFA inquiry.  
6 **Q Just so the record's clear, because**  
7 **I don't think I understand your answer -- and that**  
8 **may be my fault -- is your testimony, no, you never**  
9 **reviewed Long Leaf Trading's sales practices and**  
10 **scripts to confirm that they accurately represented**  
11 **the risk and reward a customer would experience**  
12 **trading the Time Means Money broker-assisted**  
13 **trading system?**  
14 A There's a timing issue here, okay,  
15 where I'm giving -- where I -- did I review the  
16 scripts before they used it or to see if it was  
17 compliant, the answer is no. Did I review the  
18 script in response to responding to a regulatory  
19 inquiry, the answer is yes.  
20 **MR. PLATT:** Okay. Let's go off the  
21 record, maybe a five- or a ten-minute break.  
22 I think I'm almost done. I just want to make  
23 sure that I don't have any followup. Thank you.  
24 **MR. FALVEY:** Okay.

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1 (Whereupon a recess was taken from  
2 3:13 p.m., to 3:35 p.m., after which  
3 the following proceedings were had:)  
4 **MR. PLATT:** It's 3:35. Back on record  
5 with Ms. Wing.  
6 **Q So, Ms. Wing, before we took a break,**  
7 **I think you testified that you did review Long Leaf**  
8 **scripts and solicitation materials in connection**  
9 **with drafting a response to an NFA inquiry but**  
10 **you did not review NFA scripts and solicitation**  
11 **materials on a prospective basis. Is that an**  
12 **accurate summary?**  
13 A Correct.  
14 **Q Did there ever come a time when**  
15 **Mr. Donelson did ask you to review Long Leaf's**  
16 **scripts on a prospective basis?**  
17 A I don't believe so.  
18 **Q Do you have a recollection of Long Leaf**  
19 **revising its script in early 2019?**  
20 A I believe that Long Leaf was working with  
21 the NFA to revise that script, yes.  
22 **Q Did you revise -- did you review**  
23 **Long Leaf's scripts and solicitations in early**  
24 **2019 to ensure that they would not be misleading?**

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1 A I did not -- I don't believe I did.  
2 It would have been confirming with Long Leaf that  
3 they work with the NFA in reviewing that.  
4 **Q I'm not sure I understand. So we've**  
5 **discussed the response to the NFA inquiry, and I**  
6 **understand that you reviewed Long Leaf's scripts**  
7 **in connection with drafting that response letter to**  
8 **the NFA. How was that similar or different in 2019**  
9 **when Long Leaf revised its solicitation materials?**  
10 A I confirmed that they were working with  
11 the NFA to review that script prior to use. Did I  
12 review it, no. There's a whole NFA department that  
13 discusses these things.  
14 **Q Okay. I think I understand and**  
15 **I just want to summarize it to make sure that**  
16 **I do accurately understand. So there was a time**  
17 **when you reviewed scripts in connection with the**  
18 **response to the NFA's inquiry and there was also**  
19 **a time when you -- it sounds like you told Long**  
20 **Leaf to get its scripts approved by the NFA,**  
21 **is that right?**  
22 A That's correct.  
23 **Q But at no time did you review a script**  
24 **before it was used to ensure that it would not be**

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1 **misleading to customers, right?**  
2 A That's correct. That fell -- on option  
3 trading I deferred to the experts.  
4 **Q Did Donelson ever provide you any**  
5 **information about the performance of Long Leaf's**  
6 **trading recommendations?**  
7 A We're getting in an area that probably  
8 is attorney-client privilege because it deals with  
9 representing Mr. Donelson in his deposition with  
10 the CFTC.  
11 **MR. FALVEY:** I couldn't hear you, Rebecca,  
12 very well there.  
13 **THE WITNESS:** It deals with  
14 my representation of Mr. Donelson at the  
15 CFTC deposition. So I do not feel that  
16 this is --  
17 **MR. FALVEY:** Okay.  
18 **THE WITNESS:** -- within the parameters  
19 of the waiver of attorney-client privilege.  
20 **BY MR. PLATT:**  
21 **Q Okay. And just so the record's**  
22 **clear, I'm asking you if Long Leaf provided**  
23 **information regarding the performance of its**  
24 **trading recommendations so that the CFTC can**

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1 **determine whether or not any advice you may have**  
2 **provided was fully informed. And I understand that**  
3 **you're objecting on the basis of attorney-client**  
4 **privilege, is that right?**  
5 A That's correct.  
6 **MR. PLATT:** Okay. I think that's  
7 all my questions. Mr. Falvey, I don't know  
8 if you have any questions. Ms. Wing, you're  
9 welcome to make any clarifications on the record  
10 that you'd like.  
11 **MR. FALVEY:** I don't have any, Mr. Platt.  
12 Ms. Wing, I don't know if there's anything you  
13 want to clarify.  
14 **THE WITNESS:** No. I mean, remind me.  
15 Do I get to review and reserve signature?  
16 **MR. FALVEY:** Yes. And, Mary, you want  
17 to address that?  
18 (Discussion off the record.)  
19 **MR. FALVEY:** Okay.  
20 **MR. PLATT:** Mr. Ruth, did you have  
21 any questions? All right. Hearing nothing,  
22 I think we can go off the record. Thank you  
23 for your time, Ms. Wing. We appreciate you  
24 participating in this deposition.

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1 **THE WITNESS:** Okay. Enjoy the beautiful  
2 day.  
3 (WITNESS EXCUSED)  
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1 Rules of Civil Procedure for the United States  
2 District Courts, if deponent fails to read and sign  
3 this deposition transcript within 30 days or make  
4 other arrangements for reading and signing thereof,  
5 this deposition transcript may be used as fully  
6 as though signed, and the instant certificate will  
7 then evidence such failure to read and sign this  
8 deposition transcript as the reason for signature  
9 being waived.

10           The undersigned is not interested in the  
11 within case, nor of kin or counsel to any of the  
12 parties.

13                   Witness my official signature and seal as  
14 Notary Public, in and for Cook County, Illinois on  
15 this 1st day of July, A.D., 2021.

15 THIS 1st day of July, A.D., 2021.  
16  
17   
18 Mary Maslowski, CSR, RPR  
19 Notary Public  
79 West Monroe, Suite 1001  
Chicago, Illinois 60603

21  
22  
23  
24

1 ORTHERN DISTRICT OF ILLINOIS )  
 ASTERN DIVISION )  
 2 TATE OF ILLINOIS ) SS.  
 3 OUNTY OF COOK )

13                   The said witness, REBECCA J. WING, was  
14 first duly sworn to tell the truth, the whole truth,  
15 and nothing but the truth, and was then examined  
16 upon oral interrogatories.

17 I further certify that the foregoing is a  
18 true, accurate and complete record of the questions  
19 asked of and answers made by the said witness, at  
20 the time and place hereinabove referred to.

21           The signature of the witness was not waived  
22 by agreement.

23 The deposition terminated at 3:43 p.m.  
24 Pursuant to Rule 30(e) of the Federal

REBECCA J. WING

## COMMODITY FUTURES TRADING COMMISSION v. LONG LEAF TRADING GROUP, INC., et al.

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¶	<b>acting (4)</b> 83:14;92:10,11; 116:24	<b>advise (5)</b> 17:7;46:6;116:20; 125:3;151:3	<b>Ahlfeld (1)</b> 81:4	<b>applying (1)</b> 92:17
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A	<b>activities (12)</b> 10:19;51:2;56:13; 58:21;61:1;125:8,14; 126:7,10;140:11,12,14	<b>advising (7)</b> 84:1;95:11;98:12; 99:3,4;106:11;125:6	<b>allegations (1)</b> 27:5	<b>appropriate (2)</b> 136:19;137:24
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